

108TH CONGRESS
1ST SESSION

H. R. 2490

To promote elder justice, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2003

Mr. EMANUEL (for himself, Mr. BLUNT, Mr. KING of New York, Mr. HOYER, Mr. REYNOLDS, Mr. RANGEL, Mr. SHIMKUS, Ms. DeLAURO, Mr. WALSH, Mr. FROST, Mr. BEAUPREZ, Mr. STARK, Mrs. MILLER of Michigan, Mr. GEORGE MILLER of California, Mr. COLE, Mr. WAXMAN, Ms. HARRIS, Mr. JOHN, Mr. RENZI, Mr. KILDEE, Mr. KIRK, Mr. EVANS, Ms. GINNY BROWN-WAITE of Florida, Mr. Faleomavaega, Mr. McHUGH, Mr. CROWLEY, Mr. ACKERMAN, Mr. HINOJOSA, Mr. GRIJALVA, Mr. ISRAEL, Mr. CRAMER, Mrs. MCCARTHY of New York, Mr. BISHOP of New York, Mr. ROSS, Mr. DAVIS of Alabama, Mr. WEINER, Ms. WATSON, Mr. CARSON of Oklahoma, Mr. ACEVEDO-VILÁ, Ms. JACKSON-LEE of Texas, Mrs. MALONEY, Mr. McNULTY, Mr. NADLER, Mr. OWENS, Mr. BELL, Ms. LINDA T. SÁNCHEZ of California, and Mr. SCHIFF) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote elder justice, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Elder Justice Act”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

- Sec. 101. Amendment to the Social Security Act.
- Sec. 102. Patient abuse prevention.
- Sec. 103. Increasing the number of health care professionals with geriatric training.
- Sec. 104. Supporting the long-term care ombudsman program.
- Sec. 105. Establishment of Office of Adult Protective Services.
- Sec. 106. Assuring safety of residents when nursing facilities close.

TITLE II—DEPARTMENT OF JUSTICE

- Sec. 201. Definitions; rule.
- Sec. 202. Model State laws and practices.
- Sec. 203. Office of Elder Justice of the Department of Justice.
- Sec. 204. Grants under the Social Security Act.
- Sec. 205. Victim advocacy grants.
- Sec. 206. Supporting local prosecutors in elder justice matters.
- Sec. 207. Supporting State prosecutors in elder justice matters.
- Sec. 208. Supporting Federal cases involving elder justice.
- Sec. 209. Community policing.
- Sec. 210. Supporting law enforcement in elder justice matters.
- Sec. 211. Evaluations.
- Sec. 212. Authorization of appropriations.
- Sec. 213. Cause of action for elder abuse and neglect.
- Sec. 214. Civil actions for elder abuse and neglect.

TITLE III—TAX PROVISIONS

- Sec. 301. Long-term care facility worker employment tax credit.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The proportion of the United States popu-
9 lation age 60 years or older will drastically increase

1 in the next 30 years as 77,000,000 baby boomers
2 approach retirement and old age.

3 (2) Each year, anywhere between 500,000 and
4 5,000,000 elders in the United States are abused,
5 neglected, or exploited.

6 (3) Elder abuse, neglect, and exploitation have
7 no boundaries, and cross all racial, social class, gen-
8 der, and geographic lines.

9 (4) Victims of elder abuse, neglect, and exploi-
10 tation are not only subject to injury from mistreat-
11 ment and neglect, they are also 3.1 times more likely
12 to die at an earlier age than expected than elders
13 who were not victims of elder abuse, neglect, and ex-
14 ploitation.

15 (5) There is a general dearth of data as to the
16 nature and scope of elder abuse, neglect, and exploi-
17 tation.

18 (6) Despite the dearth of data in the field, ex-
19 perts agree that most cases of elder abuse, neglect,
20 and exploitation are never reported and that abuse
21 and neglect shorten a victim's life, often triggering
22 a downward spiral of an otherwise productive, self-
23 sufficient elder's life. Programs addressing other dif-
24 ficult issues such as domestic violence and child
25 abuse and neglect have demonstrated the need for a

1 multi-faceted law, combining public health, social
2 service, and law enforcement approaches.

3 (7) For over 20 years, Congress has been pre-
4 sented with facts and testimony calling for a coordi-
5 nated Federal effort to combat elder abuse, neglect,
6 and exploitation.

7 (8) The Federal Government has been slow to
8 respond to the needs of victims of elder abuse, ne-
9 glect, and exploitation or to undertake prevention ef-
10 forts.

11 (9) No Federal law has been enacted that ade-
12 quately and comprehensively addresses the issues of
13 elder abuse, neglect, and exploitation and there are
14 very limited resources available to those in the field
15 directly dealing with these issues.

16 (10) Differences in State laws and practices in
17 the areas of elder abuse, neglect, and exploitation
18 lead to significant disparities in prevention, protec-
19 tive and social services, treatment systems, and law
20 enforcement, and lead to other inequities.

21 (11) The Federal Government has played an
22 important role in promoting research, training, pub-
23 lic safety, data collection, the identification, develop-
24 ment, and dissemination of promising health care,
25 social, and protective services, and law enforcement

1 practices, relating to child abuse and neglect, domes-
2 tic violence, and violence against women. The Fed-
3 eral Government should promote similar efforts and
4 protections relating to elder abuse, neglect, and ex-
5 ploitation.

6 (12) The Federal Government should provide
7 leadership and assist States and communities in
8 their efforts to protect elders in the United States
9 by—

10 (A) promoting coordinated planning among
11 all levels of government;

12 (B) generating and sharing knowledge rel-
13 evant to protecting elders;

14 (C) providing leadership to combat the
15 abuse, neglect, and exploitation of the Nation's
16 elders; and

17 (D) providing resources to States and com-
18 munities to promote elder justice.

19 (13) The problem of elder abuse, neglect, and
20 exploitation requires a comprehensive approach
21 that—

22 (A) integrates the work of health, legal,
23 and social service agencies and organizations;

24 (B) emphasizes the need for prevention, re-
25 porting, investigation, assessment, treatment,

1 and prosecution of elder abuse, neglect, and ex-
2 ploitation at all levels of government;

3 (C) ensures that sufficient numbers of
4 properly trained personnel with specialized
5 knowledge are in place to treat, assess, and pro-
6 vide services relating to elder abuse, neglect,
7 and exploitation, and carry out elder and vul-
8 nerable adult protection duties;

9 (D) is sensitive to ethnic and cultural di-
10 versity;

11 (E) recognizes the role of mental health,
12 disability, dementia, substance abuse, medica-
13 tion mismanagement, and family dysfunction
14 problems in increasing and exacerbating elder
15 abuse, neglect, and exploitation; and

16 (F) balances adults' right to self-deter-
17 mination with society's responsibility to protect
18 elders and vulnerable adults.

19 (14) The human, social, and economic cost of
20 elder abuse, neglect, and exploitation is high and in-
21 cludes unnecessary expenditures of medicare and
22 medicaid funds.

23 (15) The failure to coordinate activities relating
24 to, and comprehensively prevent and treat, elder
25 abuse, neglect, and exploitation threatens the future

1 and well-being of millions of elders in the United
2 States.

3 (16) All elements of society in the United
4 States have a shared responsibility in responding to
5 a national problem of elder abuse, neglect, and ex-
6 ploitation.

7 **SEC. 3. PURPOSES.**

8 The purposes of this Act are as follows:

9 (1) To bring a comprehensive approach to pre-
10 venting and combating elder abuse, neglect, and ex-
11 ploitation, a long invisible problem that afflicts the
12 most vulnerable among the aging population of the
13 United States.

14 (2) To raise the issue of elder abuse, neglect,
15 and exploitation to national attention, and to create
16 the infrastructure at the Federal, State, and local
17 levels, to assure that individuals and organizations
18 on the front lines, who are fighting elder abuse, ne-
19 glect, and exploitation with scarce resources and
20 fragmented systems, have the resources and infor-
21 mation needed to carry out their fight.

22 (3) To bring a comprehensive multi-disciplinary
23 approach to elder justice.

1 (4) To set in motion research and data collec-
2 tion to fill gaps in knowledge about elder abuse, ne-
3 glect, and exploitation.

4 (5) To supplement the activities of service pro-
5 viders and programs, to enhance training, and to le-
6 verage scarce resources efficiently to ensure that
7 elder justice receives the attention it deserves as the
8 Nation's population ages.

9 (6) To examine the many different laws and
10 practices relating to elder justice in different States
11 and jurisdictions to ascertain which among those
12 laws and practices are the most effective.

13 (7) To promote the development of an effective
14 adult fiduciary system, including an adult guardian-
15 ship system, that protects individuals with dimin-
16 ished capacity, maximizes their autonomy, and devel-
17 ops effective resources and an elder rights system.

18 (8) To recognize and address the role of mental
19 health, disability, dementia, substance abuse, medi-
20 cation mismanagement, and family dysfunction prob-
21 lems in increasing and exacerbating elder abuse, ne-
22 glect and exploitation.

23 (9) To create a short- and long-term strategic
24 plan for the development and coordination of elder

1 justice research, programs, studies, training, and
 2 other efforts nationwide.

3 (10) To promote collaborative efforts and di-
 4 minish overlap and gaps in efforts in developing the
 5 important field of elder justice.

6 **TITLE I—DEPARTMENT OF** 7 **HEALTH AND HUMAN SERVICES**

8 **SEC. 101. AMENDMENT TO THE SOCIAL SECURITY ACT.**

9 The Social Security Act (42 U.S.C. 301 et seq.) is
 10 amended by adding at the end the following:

11 **“TITLE XXII—ELDER JUSTICE**

12 **“SEC. 2201. DEFINITIONS; RULE.**

13 “(a) DEFINITIONS.—In this title:

14 “(1) ABUSE.—The term ‘abuse’ means the
 15 knowing infliction of physical or psychological harm
 16 or the knowing deprivation of goods or services that
 17 are necessary to meet essential needs or to avoid
 18 physical or psychological harm.

19 “(2) ADULT PROTECTIVE SERVICES.—The term
 20 ‘adult protective services’ means those services pro-
 21 vided to elders and to people age 18 and older with
 22 disabilities who are, or who are in danger of being,
 23 abused, neglected, or exploited, who are unable to
 24 protect themselves, or who have no one to assist
 25 them adequately. The term includes services such as

1 disseminating reports of adult abuse, neglect or ex-
2 ploitation, investigating those reports, case planning,
3 monitoring, evaluation, providing other case work
4 and services, and providing, arranging for, or facili-
5 tating the provision of medical, social service, eco-
6 nomic, legal, housing, law enforcement, or other pro-
7 tective, emergency, or support services.

8 “(3) CAREGIVER.—The term ‘caregiver’ means
9 an individual who has the responsibility for the care
10 of an elder, either voluntarily, by contract, by receipt
11 of payment for care, or as a result of the operation
12 of law and means a family member or other indi-
13 vidual who provides (on behalf of such individual or
14 of a public or private agency, organization, or insti-
15 tution) compensated or uncompensated care to an
16 elder who needs supportive services in any setting.

17 “(4) DIRECT CARE.—The term ‘direct care’
18 means care by an employee or contractor who pro-
19 vides assistance or long-term care services to a re-
20 cipient.

21 “(5) ELDER.—The term ‘elder’ means an indi-
22 vidual age 60 or older.

23 “(6) ELDER JUSTICE.—The term ‘elder justice’
24 means—

1 “(A) from a societal perspective, efforts to
2 prevent, detect, treat, intervene in, and pros-
3 ecute elder abuse, neglect, and exploitation and
4 to protect elders with diminished capacity while
5 maximizing their autonomy; and

6 “(B) from an individual perspective, the
7 recognition of an elder’s rights, including the
8 right to be free of abuse, neglect, and exploi-
9 tation.

10 “(7) ELIGIBLE ENTITY.—The term ‘eligible en-
11 tity’ means a State or local government agency, In-
12 dian tribe, or any other public or private entity that
13 is engaged in and has expertise in issues relating to
14 elder justice or in a field necessary to promote elder
15 justice efforts.

16 “(8) EXPLOITATION.—The term ‘exploitation’
17 means the fraudulent or otherwise illegal, unauthor-
18 ized, or improper act or process of an individual, in-
19 cluding a caregiver or fiduciary, that uses the re-
20 sources of an elder for monetary or personal benefit,
21 profit, gain, or that results in depriving an elder of
22 rightful access to, or use of, benefits, resources, be-
23 longings, or assets.

24 “(9) FIDUCIARY.—The term ‘fiduciary’—

1 “(A) means a person or entity with the
2 legal responsibility—

3 “(i) to make decisions on behalf of
4 and for the benefit of another person; and

5 “(ii) to act in good faith and with
6 fairness; and

7 “(B) includes a trustee, a guardian, a con-
8 servator, an executor, an agent under a finan-
9 cial power of attorney or health care power of
10 attorney, or a representative payee.

11 “(10) GRANT.—The term ‘grant’ includes a
12 contract, cooperative agreement, or other mechanism
13 for providing financial assistance.

14 “(11) GRANTING AUTHORITY.—The term
15 ‘granting authority’ means the Secretary of Health
16 and Human Services, the Attorney General, or the
17 Secretary of Health and Human Services and the
18 Attorney General jointly, as appropriate.

19 “(12) GUARDIANSHIP.—The term ‘guardian-
20 ship’ means—

21 “(A) the process by which a State court
22 determines that an adult individual lacks capac-
23 ity to make decisions about self-care and prop-
24 erty, and appoints another individual or entity

1 known as a guardian, as a conservator, or by a
2 similar term, as surrogate decisionmaker;

3 “(B) the manner in which the court-ap-
4 pointed surrogate carries out duties to the indi-
5 vidual and the court; or

6 “(C) the manner in which the court exer-
7 cises oversight of the surrogate.

8 “(13) INDIAN.—The term ‘Indian’ means a per-
9 son who is a member of an Indian tribe.

10 “(14) INDIAN TRIBE.—The term ‘Indian tribe’
11 means any Indian tribe, band, nation, or other orga-
12 nized group or community, including any Alaska Na-
13 tive village or regional corporation as defined in or
14 established pursuant to the Alaska Native Claims
15 Settlement Act (43 U.S.C. 1601 et seq.), that is rec-
16 ognized as eligible for the special programs and serv-
17 ices provided by the United States to Indians be-
18 cause of their status as Indians.

19 “(15) KNOWINGLY.—The term ‘knowingly’ has
20 the meaning given such term in section 3729(b) of
21 title 31, United States Code.

22 “(16) LAW ENFORCEMENT.—The term ‘law en-
23 forcement’ means the full range of potential re-
24 sponders to elder abuse, neglect, and exploitation in-
25 cluding—

1 “(A) police, sheriffs, detectives, public safe-
2 ty officers, and corrections personnel;

3 “(B) prosecutors;

4 “(C) medical examiners;

5 “(D) investigators; and

6 “(E) coroners.

7 “(17) LONG-TERM CARE.—

8 “(A) IN GENERAL.—The term ‘long-term
9 care’ means a wide range of supportive and
10 health services for individuals who need assist-
11 ance because the individuals have a loss of ca-
12 pacity for self-care due to illness, disability, or
13 vulnerability.

14 “(B) NEED FOR ASSISTANCE.—For pur-
15 poses of subparagraph (A), a need for assist-
16 ance is often measured in terms of the capa-
17 bility to engage in activities of daily living, in-
18 cluding eating, dressing, bathing, and manage-
19 ment of one’s financial affairs.

20 “(18) LONG-TERM CARE FACILITY.—The term
21 ‘long-term care facility’ means a residential care pro-
22 vider that arranges for, or directly provides, long-
23 term care.

24 “(19) NEGLECT.—The term ‘neglect’ means—

1 “(A) the failure of a caregiver or fiduciary
2 to provide the goods or services that are nec-
3 essary to maintain the health or safety of an
4 elder; or

5 “(B) self-neglect.

6 “(20) NURSING FACILITY.—The term ‘nursing
7 facility’ has the meaning given such term under sec-
8 tion 1919(a).

9 “(21) SELF-NEGLECT.—The term ‘self-neglect’
10 means an adult’s inability, due to physical or mental
11 impairment or diminished capacity, to perform es-
12 sential self-care tasks including—

13 (A) obtaining essential food, clothing, shel-
14 ter, and medical care;

15 (B) obtaining goods and services necessary
16 to maintain physical health, mental health, or
17 general safety; or

18 (C) managing one’s own financial affairs.

19 “(22) SERIOUS BODILY INJURY.—

20 “(A) IN GENERAL.—The term ‘serious
21 bodily injury’ means an injury—

22 “(i) involving extreme physical pain;

23 “(ii) involving substantial risk of
24 death;

1 “(iii) involving protracted loss or im-
2 pairment of the function of a bodily mem-
3 ber, organ, or mental faculty; or

4 “(iv) requiring medical intervention
5 such as surgery, hospitalization, or phys-
6 ical rehabilitation.

7 “(B) CRIMINAL SEXUAL ABUSE.—Serious
8 bodily injury shall be considered to have oc-
9 curred if the conduct causing the injury is con-
10 duct constituting aggravated sexual abuse
11 under section 2241, or sexual abuse under sec-
12 tion 2242, of title 18, United States Code, or
13 any similar offense under State law.

14 “(23) SOCIAL.—The term ‘social’, when used
15 with respect to a service, includes adult protective
16 services.

17 “(24) STATE.—The term ‘State’ means any of
18 the several States, the District of Columbia, the
19 Commonwealth of Puerto Rico, and any other pos-
20 session or territory of the United States.

21 “(25) STATE LONG-TERM CARE OMBUDSMAN.—
22 The term ‘State Long-Term Care Ombudsman’
23 means the State Long-Term Care Ombudsman de-
24 scribed in section 712(a)(2) of the Older Americans
25 Act of 1965 (42 U.S.C. 3058g(a)(2)).

1 “(26) UNDERSERVED POPULATION.—The term
2 ‘underserved population’ means the population of an
3 area designated by the Secretary as an area with a
4 shortage of elder justice programs or a population
5 group designated by the Secretary as having a short-
6 age of such programs. Such areas or groups des-
7 ignated by the Secretary may include—

8 “(A) areas or groups that are geographi-
9 cally isolated (such as isolated in a rural area);

10 “(B) racial and ethnic minority popu-
11 lations; and

12 “(C) populations underserved because of
13 special needs (such as language barriers, dis-
14 abilities, alien status, or age).

15 “(27) VULNERABLE ADULT.—The term ‘vulner-
16 able adult’ means an adult, age 18 or older, who
17 needs protections and programs that are the same
18 as or similar to protections and programs for elders,
19 including an adult who, due to a developmental, cog-
20 nitive, psychological, physical, or other type of dis-
21 ability, may be abused, neglected, or exploited.

22 “(b) RULE.—The Secretary may determine, in an ap-
23 propriate case, that a provision of this title that applies
24 to elders also applies to vulnerable adults.

1 **“Subtitle A—Federal Elder Justice**
2 **System**

3 **“SEC. 2211. OFFICE OF ELDER JUSTICE OF THE DEPART-**
4 **MENT OF HEALTH AND HUMAN SERVICES.**

5 “(a) ESTABLISHMENT.—There is established within
6 the Department of Health and Human Services under the
7 Assistant Secretary for Aging an Office of Elder Justice.

8 “(b) DIRECTOR.—

9 “(1) APPOINTMENT.—The President, with the
10 advice and consent of the Senate, shall appoint a Di-
11 rector of the Office of Elder Justice, from among in-
12 dividuals with experience and expertise in elder jus-
13 tice issues, to manage the Office of Elder Justice es-
14 tablished under this section.

15 “(2) DUTIES.—The Director of the Office of
16 Elder Justice shall—

17 “(A)(i) develop objectives, priorities, policy,
18 and a long-term plan for elder justice programs
19 and activities relating to prevention, detection,
20 training, treatment, evaluation, intervention, re-
21 search, and improvement of the elder justice
22 system in the United States;

23 “(ii) implement the overall policy and a
24 strategy to carry out the plan described in
25 clause (i); and

1 “(iii) hire personnel to assist the director
2 in carrying out the policy, program, and admin-
3 istrative activities related to the duties under
4 clauses (i) and (ii);

5 “(B) provide advice to the Secretary on
6 elder justice issues; and

7 “(C) coordinate activities with the Senior
8 Advisor on Elder Justice.

9 “(3) REPORTING RELATIONSHIP.—The Director
10 of the Office of Elder Justice shall report to the As-
11 sistant Secretary for Aging.

12 “(4) COMPENSATION.—The Director shall be
13 compensated at a rate that shall not exceed the rate
14 established for level I of the Executive Schedule
15 under section 5312 of title 5, United States Code.

16 “(c) SENIOR ADVISOR.—

17 “(1) APPOINTMENT.—The Secretary shall ap-
18 point a Senior Advisor on Elder Justice, from
19 among individuals with experience and expertise in
20 elder justice issues.

21 “(2) DUTIES.—The Senior Advisor on Elder
22 Justice shall—

23 “(A) coordinate elder justice activities
24 among all relevant divisions, offices, and compo-

1 nents of the Department of Health and Human
2 Services;

3 “(B) serve as the chairperson of the Intra-
4 Agency Elder Justice Steering Committee es-
5 tablished under section 2212; and

6 “(C) provide advice to the Secretary on
7 elder justice issues.

8 “(3) LOCATION.—The Senior Advisor on Elder
9 Justice shall be located in the Office of the Sec-
10 retary.

11 “(4) POSITION.—The position of the Senior Ad-
12 visor on Elder Justice shall be a Senior Executive
13 Service position, as defined in section 3132 of title
14 5, United States Code.

15 **“SEC. 2212. HEALTH AND HUMAN SERVICES INTRA-AGENCY**
16 **ELDER JUSTICE STEERING COMMITTEE.**

17 “(a) IN GENERAL.—There is established within the
18 Department of Health and Human Services an Intra-
19 Agency Elder Justice Steering Committee (in this section
20 referred to as the ‘steering committee’) to coordinate the
21 elder justice programs and policy of the Department of
22 Health and Human Services.

23 “(b) MEMBERSHIP.—The steering committee shall be
24 composed of representatives, appointed by the Secretary,
25 from—

1 “(1) the Administration on Aging;

2 “(2) the National Institute on Aging;

3 “(3) the Centers for Medicare & Medicaid Serv-
4 ices;

5 “(4) the Centers for Disease Control and Pre-
6 vention;

7 “(5) the Agency for Healthcare Research and
8 Quality;

9 “(6) the Administration for Children and Fami-
10 lies, including a representative who works in adult
11 protective services;

12 “(7) the Office of the Assistant Secretary for
13 Planning and Evaluation;

14 “(8) the Health Resources and Services Admin-
15 istration;

16 “(9) the Substance Abuse and Mental Health
17 Services Administration;

18 “(10) the Indian Health Service; and

19 “(11) such other offices or divisions within the
20 Department of Health and Human Services as the
21 Secretary determines appropriate.

22 “(c) DUTIES.—The steering committee shall coordi-
23 nate elder justice matters for the Department of Health
24 and Human Services to enhance programs and collabora-
25 tions and to avoid unnecessary duplication of efforts.

1 **“SEC. 2213. ELDER JUSTICE COORDINATING COUNCIL.**

2 “(a) ESTABLISHMENT.—There is established a com-
3 mittee to be known as the Elder Justice Coordinating
4 Council (in this section referred to as the ‘Council’).

5 “(b) MEMBERSHIP.—The Council shall be composed
6 of the following:

7 “(1) The Secretary (or the Secretary’s des-
8 ignee).

9 “(2) The Attorney General (or the Attorney
10 General’s designee).

11 “(3) A representative, appointed by the head of
12 the Federal department or agency, or other entity,
13 involved from—

14 “(A) the Department of Housing and
15 Urban Development;

16 “(B) the Department of Education;

17 “(C) the Department of Labor;

18 “(D) the Department of Transportation;

19 “(E) the Department of the Treasury;

20 “(F) the Office of Management and Budg-

21 et;

22 “(G) the Office of the Surgeon General;

23 “(H) the Social Security Administration;

24 “(I) the Food and Drug Administration;

25 “(J) the Federal Trade Commission;

26 “(K) the Department of Commerce;

1 “(L) the Pension Benefit Guaranty Cor-
2 poration;

3 “(M) the Securities and Exchange Com-
4 mission;

5 “(N) the Commodity Futures Trading
6 Commission;

7 “(O) the Board of Governors of the Fed-
8 eral Reserve System;

9 “(P) the Office of the Comptroller of the
10 Currency;

11 “(Q) the Federal Deposit Insurance Cor-
12 poration;

13 “(R) the Federal Bureau of Investigation;

14 “(S) the Centers for Disease Control and
15 Prevention;

16 “(T) the Secret Service;

17 “(U) the National Institute on Aging;

18 “(V) the Internal Revenue Service; and

19 “(W) the United States Postal Service.

20 “(4) A representative appointed by the Board
21 of Directors of the Legal Services Corporation from
22 the Legal Services Corporation.

23 “(5) A representative appointed by the Presi-
24 dent from—

25 “(A) the State Justice Institute;

1 “(B) the National Research Council of the
2 National Academy of Sciences; and

3 “(C) the Institute of Medicine of the Na-
4 tional Academy of Sciences.

5 “(6) Representatives from other Federal agen-
6 cies, appointed by the heads of the Federal agencies
7 with responsibilities or programs relating to elder
8 abuse, neglect, and exploitation as determined ap-
9 propriate by the Secretary and the Attorney Gen-
10 eral.

11 “(7) One representative from each State, rep-
12 resenting State and local governments, appointed by
13 the President from among persons designated by the
14 Governor of such State due to expertise in, and ac-
15 tive work in, the area of elder justice.

16 “(8) The members of the advisory board estab-
17 lished under section 2214.

18 “(c) PERIOD OF APPOINTMENT; VACANCIES.—Mem-
19 bers shall be appointed for terms of 3 years. Any vacancy
20 in the Council shall not affect its powers, but shall be filled
21 in the same manner as the original appointment was
22 made.

23 “(d) CO-CHAIRPERSONS.—The Council shall be co-
24 chaired by the Secretary and the Attorney General (or
25 their designees).

1 “(e) MEETINGS.—

2 “(1) IN GENERAL.—The Council shall meet at
3 least 2 times per year as determined by the co-chair-
4 persons.

5 “(2) ELDER JUSTICE SUMMIT.—

6 “(A) IN GENERAL.—One of the meetings
7 described in paragraph (1) shall be an Elder
8 Justice Summit to review the state of elder jus-
9 tice, including—

10 “(i) a summary presentation directly
11 to the Secretary and the Attorney General
12 regarding—

13 “(I) the nature and dimension of
14 the problems of elder abuse, neglect,
15 and exploitation;

16 “(II) Federal, State, local, and
17 private efforts in elder justice;

18 “(III) challenges to be faced in
19 elder justice;

20 “(IV) promising practices in
21 elder justice; and

22 “(V) plans and priorities for the
23 future in elder justice;

1 “(ii) additional presentations to ad-
2 dress in greater detail those topics de-
3 scribed in clause (i); and

4 “(iii) presentations on such other top-
5 ics as the Council determines appropriate.

6 “(B) PARTICIPANTS.—Additional partici-
7 pants, in addition to the members of the Coun-
8 cil, to be invited to the Elder Justice Summit
9 shall include—

10 “(i) experts in the fields of elder
11 abuse, neglect, and exploitation, selected by
12 the co-chairpersons;

13 “(ii) the chairman and ranking mem-
14 ber of the Special Committee on Aging of
15 the Senate;

16 “(iii) designees of the Speaker of the
17 House of Representatives and the minority
18 leader of the House of Representatives;
19 and

20 “(iv) governmental representatives in-
21 vited jointly by the co-chairpersons, includ-
22 ing—

23 “(I) 1 representative from the
24 Federal Government;

1 “(II) 1 representative from a
2 State government; and

3 “(III) 1 representative from a
4 local government.

5 “(C) ADDITIONAL OBSERVERS.—Addi-
6 tional observers of the Elder Justice Summit
7 may include representatives of Federal, State,
8 and local public and private entities, as well as
9 experts and members of the public designated
10 by the Council to be observers.

11 “(3) OTHER MEETINGS.—In addition to the
12 meeting described in paragraph (2), the Council
13 shall have at least 1 additional meeting per year in
14 order to—

15 “(A) conduct an in-depth analysis of the
16 numerous phenomena that make up elder
17 abuse, neglect, and exploitation;

18 “(B) permit participants to highlight
19 promising practices, exchange information
20 about addressing challenges, and identify needs
21 and priorities; and

22 “(C) determine a procedure for examining
23 and eliciting national elder justice issues and
24 priorities in order to guide the Council.

25 “(f) DUTIES.—

1 “(1) IN GENERAL.—The Council shall make
2 recommendations for the coordination of activities,
3 relating to elder abuse, neglect, and exploitation and
4 other crimes against elders, to the Department of
5 Health and Human Services, the Department of
6 Justice, and other relevant Federal, State, local, and
7 private agencies and entities.

8 “(2) REPORT.—Not later than 2 years after the
9 date of enactment of the Elder Justice Act and
10 every 2 years thereafter, the Council shall provide to
11 Congress a report that—

12 “(A) describes the activities of, accomplish-
13 ments of, and challenges faced by—

14 “(i) the Council; and

15 “(ii) the entities represented on the
16 Council; and

17 “(B) makes recommendations for legisla-
18 tion, model laws, or other appropriate action.

19 “(g) POWERS OF THE COUNCIL.—

20 “(1) HEARINGS.—The Council may hold such
21 hearings, sit and act at such times and places, take
22 such testimony, and receive such evidence as the
23 Council considers advisable to carry out this section.

24 “(2) INFORMATION FROM FEDERAL AGEN-
25 CIES.—The Council may secure directly from any

1 Federal department or agency such information as
2 the Council considers necessary to carry out this sec-
3 tion. Upon request of the co-chairpersons of the
4 Council, the head of such department or agency
5 shall furnish such information to the Council.

6 “(3) POSTAL SERVICES.—The Council may use
7 the United States mails in the same manner and
8 under the same conditions as other departments and
9 agencies of the Federal Government.

10 “(h) TRAVEL EXPENSES.—The members of the
11 Council, and the participants in and observers of the Elder
12 Justice Summit shall not receive compensation for the per-
13 formance of services for the council. The members shall
14 be allowed, and the participants may be allowed, travel
15 expenses, including per diem in lieu of subsistence, at
16 rates authorized for employees of agencies under sub-
17 chapter I of chapter 57 of title 5, United States Code,
18 while away from their homes or regular places of business
19 in the performance of services for the Council. Notwith-
20 standing section 1342 of title 31, United States Code, the
21 Secretary and the Attorney General may accept the vol-
22 untary and uncompensated services of the members and
23 the participants.

24 “(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any
25 Federal Government employee may be detailed to the

1 Council without reimbursement, and such detail shall be
 2 without interruption or loss of civil service status or privi-
 3 lege.

4 “(j) EFFECTIVE DATE.—Section 14 of the Federal
 5 Advisory Committee Act (5 U.S.C. App.) shall not apply
 6 to the Council.

7 **“SEC. 2214. ADVISORY BOARD ON ELDER ABUSE, NEGLECT,**
 8 **AND EXPLOITATION.**

9 “(a) ESTABLISHMENT.—There is established a board
 10 to be known as the ‘Advisory Board on Elder Abuse, Ne-
 11 glect, and Exploitation’ (in this section referred to as the
 12 ‘advisory board’) to create a short- and long-term multi-
 13 disciplinary strategic plan for the development of the field
 14 of elder justice, and to make recommendations to the Sec-
 15 retary, the Attorney General, the Elder Justice Coordi-
 16 nating Council established under section 2213, and the ap-
 17 propriate committees of Congress.

18 “(b) SOLICITATION OF NOMINATIONS.—The Sec-
 19 retary and the Attorney General shall jointly publish a no-
 20 tice in the Federal Register soliciting nominations for the
 21 appointment of members of the advisory board under sub-
 22 section (c).

23 “(c) COMPOSITION.—The advisory board shall be
 24 composed of members appointed jointly by the Secretary
 25 and the Attorney General, from the general public who

1 are individuals with experience and expertise in elder
2 abuse, neglect, and exploitation prevention, intervention,
3 treatment, law enforcement, or research, with due consid-
4 eration to representation of ethnic or racial minorities and
5 diverse geographic areas, including individuals who rep-
6 resent—

7 “(1) social service providers (including State
8 and local agencies with the statutory responsibility
9 for adult protective services);

10 “(2) health care providers (including geriatrics,
11 emergency medicine, and nursing and mental health
12 professionals);

13 “(3) legal professionals (including law enforce-
14 ment and the judiciary);

15 “(4) gerontologists;

16 “(5) psychologists;

17 “(6) State and local government;

18 “(7) organizations providing services to elders
19 and disabled persons;

20 “(8) volunteer groups;

21 “(9) elder rights advocates;

22 “(10) family groups;

23 “(11) experts in adult fiduciary relationships,
24 and those serving as or monitoring fiduciaries, in-
25 cluding guardians; and

1 “(12) individuals in forensics-related positions
2 (including coroners and forensic pathologists).

3 “(d) VACANCIES.—Members shall be appointed for
4 terms of 3 years. Any vacancy in the advisory board shall
5 not affect its powers, but shall be filled in the same man-
6 ner as the original appointment was made.

7 “(e) ELECTION OF OFFICERS.—The advisory board
8 shall elect a chairperson and vice chairperson from among
9 the members of the advisory board. The advisory board
10 shall elect its initial chairperson and vice chairperson at
11 its initial meeting.

12 “(f) DUTIES.—Not later than 18 months after the
13 establishment of the advisory board under subsection (a),
14 and annually thereafter, the advisory board shall prepare
15 and submit to the Secretary, the Attorney General, and
16 the appropriate committees of Congress a report con-
17 taining—

18 “(1) information on the status of Federal,
19 State, and local public and private elder justice ac-
20 tivities;

21 “(2) recommendations (including recommended
22 priorities) regarding—

23 “(A) elder justice programs, research,
24 training, services, practice, enforcement, and
25 coordination;

1 “(B) coordination between entities pur-
2 suing elder justice efforts and those involved in
3 related areas that may inform or overlap with
4 elder justice efforts, such as activities to combat
5 violence against women and child abuse and ne-
6 glect; and

7 “(C) activities relating to adult fiduciary
8 systems, including guardianship and other fidu-
9 ciary arrangements;

10 “(3) recommendations for specific modifications
11 needed in Federal and State laws (including regula-
12 tions) or for programs, research, and training to en-
13 hance prevention, detection, diagnosis, treatment,
14 intervention in, investigation, and prosecution of
15 elder abuse, neglect, and exploitation;

16 “(4) recommendations for the most effective co-
17 ordinated national data collection with respect to
18 elder justice, and elder abuse, neglect, and exploi-
19 tation; and

20 “(5) recommendations for a multidisciplinary
21 strategic plan to guide the effective and efficient de-
22 velopment of the elder justice area.

23 “(g) POWERS OF THE ADVISORY BOARD.—

24 “(1) HEARINGS.—The advisory board may hold
25 such hearings, sit and act at such times and places,

1 take such testimony, and receive such evidence as
2 the advisory board considers advisable to carry out
3 this section.

4 “(2) INFORMATION FROM FEDERAL AGEN-
5 CIES.—The advisory board may secure directly from
6 any Federal department or agency such information
7 as the advisory board considers necessary to carry
8 out this section. Upon request of the co-chairpersons
9 of the advisory board, the head of such department
10 or agency shall furnish such information to the advi-
11 sory board.

12 “(3) SHARING OF DATA AND REPORTS.—The
13 advisory board may secure from any entity pursuing
14 elder justice activities under the Elder Justice Act or
15 an amendment made by that Act, any data, reports,
16 or recommendations generated in connection with
17 such activities.

18 “(4) POSTAL SERVICES.—The advisory board
19 may use the United States mails in the same man-
20 ner and under the same conditions as other depart-
21 ments and agencies of the Federal Government.

22 “(h) TRAVEL EXPENSES.—The members of the advi-
23 sory board shall not receive compensation for the perform-
24 ance of services for the advisory board, but shall be al-
25 lowed travel expenses, including per diem in lieu of sub-

1 sistence, at rates authorized for employees of agencies
 2 under subchapter I of chapter 57 of title 5, United States
 3 Code, while away from their homes or regular places of
 4 business in the performance of services for the advisory
 5 board. Notwithstanding section 1342 of title 31, United
 6 States Code, the Secretary and the Attorney General may
 7 accept the voluntary and uncompensated services of the
 8 members of the advisory board.

9 “(i) DETAIL OF GOVERNMENT EMPLOYEES.—Any
 10 Federal Government employee may be detailed to the advi-
 11 sory board without reimbursement, and such detail shall
 12 be without interruption or loss of civil service status or
 13 privilege.

14 “(j) EFFECTIVE DATE.—Section 14 of the Federal
 15 Advisory Committee Act (5 U.S.C. App.) shall not apply
 16 to the advisory board.

17 **“Subtitle B—Activities to Promote** 18 **Elder Justice**

19 **“SEC. 2221. DATA COLLECTION AND DISSEMINATION.**

20 “(a) ELDER JUSTICE RESOURCE CENTER.—

21 “(1) ESTABLISHMENT.—The Secretary, after
 22 consultation with the Attorney General, shall estab-
 23 lish within the Office of Elder Justice (established
 24 under this title), an Elder Justice Resource Center
 25 (in this section referred to as the ‘Center’) to be the

1 central repository for information regarding elder
2 abuse, neglect, and exploitation.

3 “(2) DUTIES.—The Center shall—

4 “(A) develop the capacity and procedures
5 to collect, maintain, and disseminate informa-
6 tion relevant to consumers, families, providers,
7 clinicians, advocates, regulators, law enforce-
8 ment, policymakers, researchers, fiduciaries in-
9 cluding guardians, judges, and lawyers, relevant
10 to the prevention, detection, assessment, identi-
11 fication, and treatment of, intervention in, and
12 prosecution of, elder abuse, neglect, and exploi-
13 tation;

14 “(B) provide, in a user-friendly manner,
15 information on—

16 “(i) ways to promote autonomy in the
17 face of aging or diminishing capacity and
18 mobility;

19 “(ii) how to avoid becoming a victim
20 of elder abuse, neglect, or exploitation; and

21 “(iii) advance planning and how to
22 avoid the need for a fiduciary;

23 “(C) provide links and references to other
24 sources of information;

1 “(D) compile, analyze, and publish a sum-
2 mary of research conducted on elder abuse, ne-
3 glect, and exploitation and information on how
4 to obtain the original research materials;

5 “(E) solicit public comment and comment
6 from the advisory board established under sec-
7 tion 2214 on the activities of the Center;

8 “(F) establish a toll-free number for infor-
9 mation and referrals;

10 “(G) coordinate activities with resource
11 centers and clearinghouses on elder justice top-
12 ics; and

13 “(H) provide funding to public and private
14 agencies and entities to develop or continue the
15 efforts of specialized elder justice-related clear-
16 inghouses and information repositories, to be
17 linked to the Center, that address topics such
18 as those enumerated in subparagraphs (A) and
19 (B) and that provide effective services.

20 “(3) COORDINATION OF AVAILABLE RE-
21 SOURCES.—In establishing the Center under this
22 subsection the Secretary, after consultation with the
23 Attorney General, shall—

24 “(A) consult with other Federal agencies
25 that operate similar resource centers;

1 “(B) consult with private entities that op-
2 erate resource centers or clearinghouses on
3 elder justice related topics;

4 “(C) consult with the head of each agency
5 participating in the Elder Justice Coordinating
6 Council established under section 2213, as well
7 as other agencies with clearinghouses com-
8 parable to the Center, such as clearinghouses
9 relating to child abuse and neglect, to deter-
10 mine the most efficient and effective manner for
11 collecting, maintaining, and disseminating in-
12 formation on elder abuse, neglect, and exploi-
13 tation; and

14 “(D) solicit public comment on the compo-
15 nents of such Center.

16 “(4) NATIONAL ELDER JUSTICE LIBRARY.—

17 “(A) ESTABLISHMENT.—The Secretary
18 shall establish within the Center, a National
19 Elder Justice Library (in this paragraph re-
20 ferred to as the ‘Library’) to serve as a central-
21 ized repository for all types of appropriate ma-
22 terials concerning training, technical assistance,
23 and promising practices relating to elder justice
24 including—

25 “(i) brochures and pamphlets;

1 “(ii) video and computer-based re-
2 sources;

3 “(iii) books; and

4 “(iv) training materials.

5 “(B) INDEX.—The Library shall create
6 and maintain an up-to-date index of the mate-
7 rials described in subparagraph (A) by title, au-
8 thor, date, subject, and type of material, and a
9 brief description of such materials. Such index
10 shall be available on the Internet as well as in
11 printed form in order to be easily accessible to
12 the general public.

13 “(C) AVAILABILITY.—The materials held
14 by the Library shall be available for copying by
15 individuals and entities nationwide and shall be
16 disseminated at a nominal or no fee. The mate-
17 rials shall be copied and disseminated in ac-
18 cordance with the applicable provisions of title
19 17, United States Code.

20 “(D) DUTIES.—

21 “(i) ADDITIONAL MATERIALS.—The
22 Library shall—

23 “(I) collect data on materials
24 that would be appropriate for such li-
25 brary;

1 “(II) make efforts to identify and
2 obtain appropriate materials; and

3 “(III) identify and obtain mate-
4 rials relating to effective methods of
5 conducting training and providing
6 technical assistance relating to elder
7 justice, including conducting the
8 training and providing the assistance
9 for underserved populations.

10 “(ii) INFORMATION PACKETS.—After
11 evaluating the materials described in this
12 paragraph, the Library shall compile and
13 develop information packets for use by
14 groups in various settings including groups
15 who are underserved or have other special
16 needs. Such information packets shall in-
17 clude information and materials on train-
18 ing, technical assistance, and promising
19 practices targeted at specific topics,
20 groups, and settings.

21 “(b) COLLECTION OF UNIFORM NATIONAL DATA ON
22 ELDER ABUSE, NEGLECT, AND EXPLOITATION.—

23 “(1) PURPOSE.—The purpose of this subsection
24 is to improve, streamline, and promote uniform col-
25 lection, maintenance, and dissemination of national

1 data relating to elder abuse, neglect, and exploi-
2 tation.

3 “(2) PHASE I.—

4 “(A) IN GENERAL.—Not later than 1 year
5 after the date of enactment of the Elder Justice
6 Act, the Director of the Centers for Disease
7 Control and Prevention (in this subsection re-
8 ferred to as the ‘Director’), after consultation
9 with the Attorney General and working with ex-
10 perts in relevant disciplines, shall—

11 “(i) develop a method for collecting
12 national data regarding elder abuse, ne-
13 glect, and exploitation; and

14 “(ii) develop uniform national data re-
15 porting forms adapted to each relevant en-
16 tity or discipline (such as health, public
17 safety, social and protective services, and
18 law) reflecting—

19 “(I) the distinct manner in which
20 each discipline receives and maintains
21 information; and

22 “(II) the sequence and history of
23 reports to or involvement of different
24 disciplines, independently, or the se-

1 quence and history of reports from
2 one discipline to another over time.

3 “(B) FORMS.—The national data reporting
4 forms described in subparagraph (A)(ii) shall
5 incorporate the definitions of this title, for use
6 in determining what is considered a reportable
7 event.

8 “(3) PHASE II.—

9 “(A) IN GENERAL.—Not later than 1 year
10 after the completion of the activities described
11 in paragraph (2), the Director shall ensure that
12 the national data reporting forms and data col-
13 lection methods developed in accordance with
14 such paragraph are pilot tested in 6 States de-
15 termined by the Director.

16 “(B) ADJUSTMENTS TO THE FORM AND
17 METHODS.—The Director, after considering the
18 results of the pilot testing described in subpara-
19 graph (A), and after consultation with the At-
20 torney General and relevant experts shall adjust
21 the national data reporting forms and data col-
22 lection methods as necessary.

23 “(4) PHASE III.—

24 “(A) DISTRIBUTION OF NATIONAL DATA
25 REPORTING FORMS.—After completion of the

1 adjustment to the national data reporting forms
2 under paragraph (3)(B), the Director shall sub-
3 mit the national data reporting forms along
4 with instructions to—

5 “(i) the heads of the relevant compo-
6 nents of the Department of Health and
7 Human Services, the Department of Jus-
8 tice, and the Department of the Treasury,
9 and such other Federal entities as may be
10 appropriate; and

11 “(ii) the Governor’s office of each
12 State for collection from all relevant State
13 entities of data, including health care, so-
14 cial services, and law enforcement data.

15 “(B) DATA COLLECTION GRANTS.—

16 “(i) AUTHORIZATION.—The Director
17 is authorized to award grants to States to
18 improve data collection activities relating
19 to elder abuse, neglect, and exploitation.

20 “(ii) AMOUNT.—The amount of funds
21 provided under each grant awarded to a
22 State under this subsection shall not ex-
23 ceed \$200,000, to be distributed in accord-
24 ance with clause (v).

1 “(iii) APPLICATION.—Each State de-
2 siring a grant under this subparagraph
3 shall submit to the Director an application
4 at such time, in such manner, and con-
5 taining such information as the Director
6 may require.

7 “(iv) REQUIREMENTS.—Each State
8 receiving a grant under this subparagraph
9 for a fiscal year is required to report data
10 for the calendar year that begins during
11 that fiscal year, using the national data re-
12 porting forms described in subparagraph
13 (A).

14 “(v) FUNDING.—

15 “(I) FIRST YEAR.—For the first
16 fiscal year in which a State receives
17 grant funds under this subsection the
18 Director shall initially distribute 50
19 percent of such funds. The Director
20 shall distribute the remaining funds at
21 the end of the calendar year that be-
22 gins during that fiscal year, if the Di-
23 rector determines that the State has
24 properly reported data required under
25 this subsection for the calendar year.

1 “(II) SUBSEQUENT YEARS.—Ex-
2 cept as provided in subclause (I), the
3 Director shall distribute grant funds
4 to a State under this subsection for a
5 fiscal year if the Director determines
6 that the State properly reported data
7 required under this subsection for the
8 calendar year that ends during that
9 fiscal year.

10 “(C) REQUIRED INFORMATION.—Each re-
11 port submitted under this paragraph shall re-
12 ceive an identifier beginning with a 2-letter
13 State code, and a 2-letter year code, and such
14 numbers as the Director determines to be ap-
15 propriate. Each individual report shall be as-
16 signed a new identifier, even if a victim de-
17 scribed in the report is reported to have been
18 victimized more than once. If the State submits
19 a report for more than one discipline, the State
20 shall submit a combined report to avoid double
21 counting. The State shall note in each report
22 whether an event was ongoing or occurred in
23 distinct separate episodes.

24 “(5) REPORT.—Not later than 1 year after the
25 date of enactment of the Elder Justice Act and an-

1 nually thereafter, the Director shall prepare and
2 submit to the appropriate committees of Congress,
3 including to the Special Committee on Aging of the
4 Senate, a report regarding activities conducted
5 under this subsection.

6 “(6) REGULATIONS.—The Secretary shall pro-
7 mulgate such regulations as are necessary to carry
8 out this subsection.

9 **“SEC. 2222. ENHANCING RESEARCH AND TRAINING AND**
10 **STRENGTHENING SERVICES, SYSTEMS, AND**
11 **PREVENTION.**

12 “(a) GRANTS.—The Secretary may award grants to
13 eligible entities for the prevention, detection, assessment,
14 and treatment of, intervention in, investigation of, and
15 prosecution of elder abuse, neglect, and exploitation in-
16 cluding—

17 “(1) physical, psychological, and emotional
18 abuse and neglect by family and other in-home care-
19 givers;

20 “(2) physical, psychological, and emotional
21 abuse and neglect of residents in institutional and
22 other residential care facilities;

23 “(3) elder sexual abuse;

24 “(4) domestic violence in later life;

25 “(5) financial fraud and exploitation; and

1 “(6) self-neglect.

2 “(b) CENTERS OF EXCELLENCE.—

3 “(1) GRANTS AUTHORIZED.—The Secretary,
4 through the Director of the National Institute on
5 Aging, and after consultation with the Director of
6 the Centers for Disease Control and Prevention, the
7 Director of the Office of Elder Justice in the De-
8 partment of Health and Human Services, the Direc-
9 tor of the Office of Elder Justice in the Department
10 of Justice, and the members of the advisory board
11 established under section 2214, may award grants to
12 institutions of higher education and other appro-
13 priate entities to establish 5 Centers of Excellence
14 nationwide that shall specialize in research, clinical
15 practice, and training relating to elder abuse, ne-
16 glect, and exploitation.

17 “(2) AUTHORIZED ACTIVITIES.—The Centers of
18 Excellence established with funds provided under
19 paragraph (1) shall conduct the following activities:

20 “(A) Examine potential issues relating to
21 the protection of elders who are the subjects of
22 research on elder abuse, neglect, and exploi-
23 tation and provide guidance to other elder
24 abuse, neglect, or exploitation researchers re-
25 garding human subjects, protections, and the

1 institutional or peer review boards at research
2 institutions.

3 “(B) After consultation with the Director
4 of the National Institute on Aging, and the Di-
5 rector of the Office of Human Research Protec-
6 tions, develop and recommend to the Secretary
7 guidelines to assist the institutional or peer re-
8 view boards in the review of research under this
9 title.

10 “(C) Coordinate activities, to the extent
11 feasible, among the Centers and with other re-
12 searchers of elder abuse, neglect, and exploi-
13 tation and related areas, and designate 1 such
14 Center to lead such coordination.

15 “(3) ADDITIONAL ACTIVITIES.—The Centers of
16 Excellence established under paragraph (1) may con-
17 duct activities including the following:

18 “(A) Carrying out a study to determine
19 the national incidence and prevalence of elder
20 abuse, neglect, and exploitation in all settings.

21 “(B) Developing uniform, validated screen-
22 ing tools to assist individuals, families, practi-
23 tioners, institutions, and communities in detect-
24 ing ongoing or potential elder abuse, neglect,

1 and exploitation. The tools that may be devel-
2 oped include—

3 “(i) a screening tool to determine
4 whether a particular elder is at risk for be-
5 coming, or is, a victim;

6 “(ii) a screening tool to measure
7 whether caregivers are at risk of commit-
8 ting elder abuse, neglect, or exploitation;

9 “(iii) a screening tool to measure
10 whether families are at risk for elder
11 abuse, neglect, and exploitation; and

12 “(iv) a screening tool to assess com-
13 munities, evaluating how each individual
14 agency or system relating to elder abuse,
15 neglect, or exploitation operates in such a
16 community and how all of such agencies or
17 systems communicate and operate in rela-
18 tionship to each other within such commu-
19 nity.

20 “(C) Carrying out various types of inter-
21 vention research.

22 “(D) Identifying steps that can be taken
23 (and replicated) to make homes, neighborhoods,
24 communities, and facilities safer for elders, and

1 to enhance their sense of security in all kinds
2 of environments.

3 “(E) Researching successful fiduciary
4 practices and systems to enhance the well-being
5 of persons with diminished capacity.

6 “(4) COLLABORATION AND ACCESS TO
7 RECORDS.—In awarding a grant under this sub-
8 section the Secretary shall—

9 “(A) consider the potential for collabora-
10 tion among researchers and other relevant enti-
11 ties, such as State agencies with statutory re-
12 sponsibility for adult protective services and
13 State Long-Term Care Ombudsmen, that re-
14 ceive reports of elder abuse, neglect, and exploi-
15 tation, but that may be restricted from partici-
16 pating in research as a result of State law, con-
17 fidentiality requirements, or other provisions;
18 and

19 “(B) require that each institution of higher
20 education desiring a grant under this subsection
21 ensure that the researchers working at such in-
22 stitution will have access to records necessary
23 to conduct research in accordance with this sub-
24 section.

25 “(5) EXCELLENCE ADVISORY COMMITTEE.—

1 “(A) COMMITTEE ESTABLISHED.—There is
2 established in the Department of Health and
3 Human Services an Excellence Advisory Com-
4 mittee (in this subsection referred to as the
5 ‘Committee’).

6 “(B) MEMBERSHIP.—The Committee shall
7 be composed of individuals appointed by the
8 Secretary with a demonstrated interest and ex-
9 pertise in research, education, and clinical ac-
10 tivities related to elder abuse, neglect, and ex-
11 ploitation, or individuals with related experience
12 in essential fields such as epidemiology or fo-
13 rensic pathology, including—

14 “(i) representatives from private enti-
15 ties; and

16 “(ii) representatives from Federal and
17 State agencies, including—

18 “(I) researchers;

19 “(II) health care practitioners;

20 “(III) policy experts; and

21 “(IV) other individuals appro-
22 priate to promote useful research,
23 training, and clinical practice.

24 “(C) PERIOD OF APPOINTMENT; VACAN-
25 CIES.—Members shall be appointed for terms of

1 3 years. Any vacancy in the Committee shall
2 not affect its powers, but shall be filled in the
3 same manner as the original appointment was
4 made.

5 “(D) DUTIES.—The Committee shall co-
6 ordinate with the Advisory Board established
7 under section 2214 and shall make rec-
8 ommendations to the Secretary, the Attorney
9 General, the Elder Justice Coordinating Council
10 established under section 2213, and the Centers
11 of Excellence established under this subsection
12 concerning—

13 “(i) facilitating the coordination of the
14 activities of the Centers of Excellence es-
15 tablished under this subsection;

16 “(ii) developing procedures and mech-
17 anisms for data sharing between such Cen-
18 ters of Excellence; and

19 “(iii) ensuring that such Centers of
20 Excellence have similar systems and re-
21 search and reporting procedures in order
22 to facilitate the sharing of data.

23 “(E) TRAVEL EXPENSES.—The members
24 of the Committee shall not receive compensa-
25 tion for the performance of services for the

committee, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the Committee.

“(F) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(G) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

“(c) SAFE HAVEN AND LEGAL ADVOCACY GRANTS.—

“(1) SAFE HAVEN GRANTS.—

“(A) GRANTS AUTHORIZED.—The Secretary may award grants to 6 diverse commu-

1 nities to examine various types of elder shelters
2 (in this paragraph referred to as ‘safe havens’)
3 and to test various models for establishing safe
4 havens at home or elsewhere.

5 “(B) AUTHORIZED ACTIVITIES.—Grant
6 funds awarded pursuant to subparagraph (A)
7 shall be used to establish safe havens that—

8 “(i) provide a comprehensive, cul-
9 turally sensitive, and multidisciplinary
10 team response to allegations of elder
11 abuse, neglect, or exploitation;

12 “(ii) provide a dedicated, elder-friend-
13 ly setting;

14 “(iii) have the capacity to meet the
15 needs of elders for care; and

16 “(iv) provide various services includ-
17 ing—

18 “(I) nursing and forensic evalua-
19 tion;

20 “(II) therapeutic intervention;

21 “(III) victim support and advo-
22 cacy; and

23 “(IV) case review and assistance
24 to make the elder safer at home or to
25 find appropriate placement in safer

1 environments, including shelters, and,
2 in some circumstances long-term care
3 facilities, other residential care facili-
4 ties, and hospitals.

5 “(2) LEGAL ADVOCACY GRANTS.—

6 “(A) GRANTS AUTHORIZED.—The Sec-
7 retary, after consultation with the Attorney
8 General, may award grants—

9 “(i) to study the need for community
10 resources in order to provide assistance for
11 legal and related services for victims of
12 elder abuse, neglect, or exploitation; and

13 “(ii) to provide assistance for such
14 services by awarding grants for demonstra-
15 tion projects in diverse communities.

16 “(B) AUTHORIZED ACTIVITIES.—Grant
17 funds awarded pursuant to subparagraph (A)
18 shall be used to provide—

19 “(i) court-appointed advocates;

20 “(ii) authorized fiduciaries, including
21 public guardians;

22 “(iii) monitoring and oversight of fi-
23 duciaries;

24 “(iv) legal services; and

1 “(v) such other services as the Sec-
2 retary, after consultation with the Attorney
3 General, determines appropriate.

4 “(d) GRANTS TO ENHANCE VOLUNTEER SERV-
5 ICES.—The Secretary, after consultation with the Attor-
6 ney General, may award grants to nonprofit organizations
7 and faith-based organizations to encourage such organiza-
8 tions to establish or continue volunteer programs that
9 focus on the issues of elder abuse, neglect, and exploi-
10 tation, or that provide related services.

11 “(e) MULTIDISCIPLINARY EFFORTS.—

12 “(1) GRANTS.—The Secretary may award
13 grants to fund various multidisciplinary elder justice
14 activities, including the following:

15 “(A) Supporting and studying team ap-
16 proaches for bringing a coordinated multidisci-
17 plinary or interdisciplinary response to elder
18 abuse, neglect, and exploitation, including a re-
19 sponse from individuals in social service, health
20 care, public safety, and legal disciplines.

21 “(B) Establishing State coordinating coun-
22 cils modeled after the national Elder Justice
23 Coordinating Council established under section
24 2213. Such State coordinating councils shall
25 identify the individual States’ needs and provide

1 the national Elder Justice Coordinating Council
2 with information and recommendations relating
3 to State efforts to combat elder abuse, neglect,
4 and exploitation.

5 “(C) Providing training, technical assist-
6 ance, and other methods of support to groups
7 carrying out multidisciplinary efforts at the
8 State level (referred to in some States as ‘State
9 Working Groups’).

10 “(D) Broadening and studying various
11 models for elder fatality and serious injury re-
12 view teams, to make recommendations about
13 their composition, protocols, functions, timing,
14 roles, and responsibilities, with a goal of pro-
15 ducing models and information that will allow
16 for replication based on the needs of other
17 States and communities.

18 “(E) Carrying out other interdisciplinary
19 or multidisciplinary efforts as determined by
20 the Secretary to be appropriate.

21 “(2) INTRADISCIPLINARY REVIEW.—

22 “(A) IN GENERAL.—The Director of the
23 Centers for Disease Control and Prevention,
24 after consultation with the Director of the Of-
25 fice of Elder Justice in the Department of

1 Health and Human Services and the Director
2 of the Office of Elder Justice in the Depart-
3 ment of Justice, shall conduct an intensive
4 intradisciplinary review of entities that conduct
5 elder justice activities in several different com-
6 munities, examining how the entities address
7 elder abuse, neglect, and exploitation issues
8 (such as an assessment of various types of
9 health care and social service providers, public
10 safety agencies, law enforcement agencies, pros-
11 ecutor offices, and the judiciary).

12 “(B) GOAL.—The goals of the study de-
13 scribed in subparagraph (A) include—

14 “(i) making an assessment of the
15 functioning and effectiveness of each entity
16 in a community that conducts elder justice
17 activities, and the interdisciplinary commu-
18 nications and collaborations among such
19 entities; and

20 “(ii) developing a procedure for com-
21 munities to conduct a self-assessment to
22 assist them in identifying the manner in
23 which the entities described in clause (i) in
24 such communities respond to elder justice
25 issues, the needs of such communities re-

1 lating to elder justice issues, and ways to
2 improve the response systems of such com-
3 munities for elder abuse, neglect, and ex-
4 ploitation.

5 “(f) TRAINING GRANTS.—

6 “(1) GRANTS AUTHORIZED.—The Secretary
7 may award grants to groups representing the tar-
8 geted disciplines described in paragraph (2)(B) to
9 train individuals with respect to issues of elder
10 abuse, neglect, and exploitation.

11 “(2) AUTHORIZED ACTIVITIES.—

12 “(A) IN GENERAL.—Grant funds awarded
13 under paragraph (1) shall be used for training
14 within a discipline as well as cross-training ac-
15 tivities that permit individuals in multiple dis-
16 ciplines to train together, fostering communica-
17 tion, coordinating efforts, and ensuring collabo-
18 ration.

19 “(B) TARGETED DISCIPLINES.—Groups
20 representing disciplines that will be targeted for
21 training through grants awarded under para-
22 graph (1) include—

23 “(i) physicians (geriatricians, family
24 physicians, internists, emergency physi-
25 cians, forensic pathologists and medical ex-

1 aminers, psychiatrists, and other special-
2 ists), and medical residents, interns, and
3 fellows;

4 “(ii) nurses and nurse’s aides, includ-
5 ing geriatric nurse practitioners, directors
6 of nursing, and Sexual Abuse Nurse Ex-
7 aminers (SANE) nurses;

8 “(iii) social workers;

9 “(iv) public health and safety profes-
10 sionals including Emergency Medical Serv-
11 ices professionals;

12 “(v) therapists, including creative
13 arts, occupational, speech, and physical
14 therapists;

15 “(vi) State surveyors (who survey
16 nursing facilities and other long-term care
17 facilities);

18 “(vii) long-term care facility and hos-
19 pital staff;

20 “(viii) coroners and funeral home op-
21 erators;

22 “(ix) Federal, State, and local offices
23 with responsibility for elder justice or long-
24 term care matters;

1 “(x) employees or contractors of State
2 and local agencies with responsibility for
3 training persons who provide adult protec-
4 tive services;

5 “(xi) State Long-Term Care Ombuds-
6 men;

7 “(xii) victim advocates and advocates
8 for elders and individuals with disabilities;

9 “(xiii) individuals involved in volun-
10 teer organizations (including faith-based
11 organizations) who are involved in issues of
12 elder abuse, neglect, and exploitation;

13 “(xiv) police officers, sheriffs, detec-
14 tives, firefighters, Federal and State inves-
15 tigators, public safety officers, and correc-
16 tions personnel;

17 “(xv) Federal, State, and local pros-
18 ecutors, attorneys in private practice in-
19 volved in elder justice issues, and judges
20 and court employees;

21 “(xvi) TRIADs (federally recognized
22 partnerships of elders, sheriff departments,
23 and the American Association of Retired
24 Persons);

25 “(xvii) elder service officers;

1 “(xviii) individuals who work with the
2 public, including bank personnel, postal
3 workers, utility workers, providers of
4 home-delivered meals, and others who may
5 work with elders;

6 “(xix) students in professional and
7 paraprofessional schools, internships, fel-
8 lowships, and other training programs in a
9 relevant profession;

10 “(xx) fiduciaries, including guardians,
11 conservators, and agents under powers of
12 attorney; and

13 “(xxi) staff and volunteers of domestic
14 violence and child abuse and neglect pro-
15 grams.

16 “(g) PILOT PROJECT TO EVALUATE UTILITY OF
17 SERVICES TO ELDERS IN NEED.—The Secretary, acting
18 through the Director of the Office of Elder Justice in the
19 Department of Health and Human Services, and after
20 consultation with the Director of the Office of Elder Jus-
21 tice in the Department of Justice, is authorized to award
22 grants to develop and implement pilot projects designed
23 to ameliorate gaps in basic elder justice-related health, so-
24 cial, or protective services, with the goal of identifying

1 what types of services are most useful to elders in need,
2 and in what contexts the services are useful.

3 “(h) INCREASING THE NUMBER OF HEALTH CARE
4 PROFESSIONALS WITH GERIATRIC TRAINING.—The Sec-
5 retary shall establish programs to increase—

6 “(1) the number of health care professionals
7 (including physicians, nurses, nursing personnel, so-
8 cial workers, and therapists) and students in the
9 health care professions, who receive education and
10 training related to geriatrics; and

11 “(2) the number of such professionals who pro-
12 vide health care related to geriatrics.

13 “(i) SPECIAL NEEDS GRANTS.—

14 “(1) GRANTS AUTHORIZED.—The Secretary
15 may award grants to eligible entities to identify, ad-
16 dress, and make recommendations on meeting the
17 special needs of underserved populations of elders.

18 “(2) POPULATIONS INCLUDED.—The grant
19 funds awarded pursuant to paragraph (1) shall be
20 used to fund programs including the following:

21 “(A) RURAL SETTINGS.—Programs de-
22 signed to meet the needs of elders living in
23 rural locations, including the needs of their in-
24 formal caregivers and fiduciaries. The programs
25 shall include—

1 “(i) strategies to decrease isolation;

2 “(ii) training for informal caregivers
3 and fiduciaries;

4 “(iii) activities involving collaboration
5 between the entities and local secondary
6 schools and institutions of higher education
7 to offer classes for credit, focusing on
8 training individuals to work with elders
9 and caregivers;

10 “(iv) training for volunteers to serve
11 in rural communities; and

12 “(v) strategies on the use of advance
13 planning to avoid the need for a guardian
14 or other fiduciary.

15 “(B) MINORITY POPULATIONS.—Programs
16 designed to meet the needs of elders in minority
17 populations, including culturally and linguis-
18 tically appropriate programs.

19 “(C) INDIAN TRIBES.—Programs designed
20 to provide necessary services to elders who are
21 members of Indian tribes including successful
22 programs in elder abuse, neglect, and exploi-
23 tation prevention and treatment that target In-
24 dian populations. The entities carrying out the
25 programs shall deliver services and distribute

1 educational information on elder abuse, neglect,
2 and exploitation to Indian tribes and other pol-
3 icymakers, health and social service providers,
4 law enforcement, and researchers with a par-
5 ticular interest in elders who are members of
6 Indian tribes.

7 “(j) PUBLIC AWARENESS GRANTS.—

8 “(1) GRANTS AUTHORIZED.—The Secretary
9 and the Attorney General, after consultation with
10 the advisory board established under section 2214
11 and the coordinating council established under sec-
12 tion 2213, shall jointly award 1 grant to a national
13 organization, or 1 or more grants to eligible entities,
14 to conduct a national multimedia campaign designed
15 to raise awareness about elder abuse, neglect, and
16 exploitation.

17 “(2) AUTHORIZED ACTIVITIES.—Grant funds
18 awarded under paragraph (1) shall be used for ac-
19 tivities including the following:

20 “(A) Raising public awareness regarding
21 financial schemes that target elders.

22 “(B) Pilot testing of the effectiveness of
23 various types of multimedia campaigns in rais-
24 ing awareness about—

1 “(i) the types of elder abuse, neglect,
2 and exploitation;

3 “(ii) steps to take if an individual sus-
4 pects elder abuse, neglect, or exploitation
5 has occurred; and

6 “(iii) ways to prevent elder abuse, ne-
7 glect, or exploitation.

8 “(k) ELDER JUSTICE INNOVATION FUND.—The Sec-
9 retary and the Attorney General are authorized to jointly
10 award grants to individuals or entities working in the elder
11 justice field or related fields for research, a demonstration
12 project, development or implementation of a promising
13 program or practice, or another innovative effort, that
14 might not otherwise be funded or pursued in the absence
15 of a grant under this subsection.

16 **“SEC. 2223. STUDIES.**

17 “(a) ROLES OF ENTITIES RESPONDING TO ELDER
18 ABUSE, NEGLECT, AND EXPLOITATION.—

19 “(1) IN GENERAL.—The Secretary of Health
20 and Human Services and the Attorney General shall
21 jointly sponsor or conduct a study of the roles and
22 responsibilities of government and government-fund-
23 ed entities responsible for responding to, inves-
24 tigating, and taking other actions in response to re-

1 ports of elder abuse, neglect, and exploitation includ-
2 ing—

3 “(A) State and local agencies with the re-
4 sponsibility for adult protective services;

5 “(B) the State Long-Term Care Ombuds-
6 men;

7 “(C) law enforcement (including prosecu-
8 tors);

9 “(D) fiduciaries;

10 “(E) judges and other court personnel; and

11 “(F) such other social and protective serv-
12 ice, advocacy, and protection organizations as
13 the Secretary and the Attorney General deter-
14 mine to be appropriate.

15 “(2) GOALS.—The goals of the study author-
16 ized in paragraph (1) (which may be conducted in
17 distinct sections, if there is overall coordination)
18 are—

19 “(A) to identify gaps in detection of, inves-
20 tigation of, and intervention in elder abuse, ne-
21 glect, and exploitation;

22 “(B) to improve the response to elder
23 abuse, neglect, and exploitation; and

24 “(C) to reduce elder victimization and its
25 consequences by assessing and improving the

1 systems created to address reports of the prob-
2 lems.

3 “(3) AUTHORIZED ACTIVITIES.—In conducting
4 the study authorized in paragraph (1), the Director
5 shall—

6 “(A) conduct an evaluation of—

7 “(i) how the social and protective
8 service, advocacy, protection, judicial, and
9 law enforcement entities and systems are
10 operating;

11 “(ii) the interplay and allocation of re-
12 sponsibilities among those entities;

13 “(iii) how that allocation differs from
14 community to community and State to
15 State; and

16 “(iv) how those differences impact the
17 population intended to be protected by the
18 entities and systems;

19 “(B) make recommendations on how to
20 clarify the roles (at the national level) of enti-
21 ties such as State agencies with responsibility
22 for adult protective services, the State Long-
23 Term Care Ombudsmen, and other protection
24 and advocacy entities to enhance efficiency,
25 eliminate gaps in service, and identify con-

1 flicting mandates and duplication of efforts;
2 and

3 “(C) evaluate how various communities de-
4 lineate the roles and responsibilities of the types
5 of entities described in subparagraph (A) in
6 order to identify and recommend effective mod-
7 els and methods to duplicate the delineation ef-
8 forts (such as duplication through memoranda
9 of understanding).

10 “(b) FAMILY ELDER ABUSE, NEGLECT, AND EX-
11 PLOITATION STUDY.—

12 “(1) IN GENERAL.—The Director of the Cen-
13 ters for Disease Control and Prevention (in this sub-
14 section referred to as the ‘Director’), after consulta-
15 tion with the Director of the Office of Elder Justice
16 in the Department of Health and Human Services
17 and the Director of the Office of Elder Justice in
18 the Department of Justice, shall conduct a study to
19 determine the best method to address elder abuse,
20 neglect, and exploitation from a public health per-
21 spective, including examining methods to reduce
22 elder abuse, neglect, and exploitation committed by
23 family members.

24 “(2) COLLABORATION.—The Director, in car-
25 rying out activities under this subsection, shall col-

1 laborate with the Director of the National Institute
2 on Aging, the Director of the Office of Elder Justice
3 in the Department of Health and Human Services,
4 the Director of the Office of Elder Justice in the
5 Department of Justice, the heads of State agencies
6 with responsibility for adult protective services, and
7 the heads of such other entities as the Director de-
8 termines appropriate.

9 **“SEC. 2224. FORENSIC MARKERS, METHODOLOGIES, AND**
10 **TRAINING.**

11 “(a) FORENSIC CENTERS.—

12 “(1) GRANTS.—The Secretary shall make
13 grants to appropriate entities to establish and oper-
14 ate stationary and mobile forensic centers, to de-
15 velop forensic expertise regarding, and provide serv-
16 ices relating to, elder abuse, neglect, and exploi-
17 tation.

18 “(2) COORDINATION AMONG FORENSIC CEN-
19 TERS AND CENTERS OF EXCELLENCE.—The entities
20 establishing and operating the forensic centers shall
21 coordinate activities on an ongoing basis with the
22 Centers of Excellence described in section
23 2222(b)(1) and with the Excellence Advisory Com-
24 mittee described in section 2222(b)(5). Such coordi-
25 nation shall include ongoing communication among

1 the entities, the Centers of Excellence, and the Ex-
2 cellence Advisory Committee. The entities shall ad-
3 here to the procedures and mechanisms developed by
4 the Excellence Advisory Committee including proce-
5 dures and mechanisms relating to the sharing of
6 data.

7 “(3) STATIONARY FORENSIC CENTERS.—The
8 Secretary shall make 4 of the grants described in
9 paragraph (1) to institutions of higher education
10 with demonstrated expertise in forensics or commit-
11 ment to preventing or treating elder abuse, neglect,
12 or exploitation, to establish and operate stationary
13 forensic centers. The Secretary shall make at least
14 2 of the 4 grants to an entity operating a Center of
15 Excellence described in section 2222(b)(1) at an in-
16 stitution of higher education.

17 “(4) MOBILE CENTERS.—The Secretary shall
18 make 6 of the grants described in paragraph (1) to
19 appropriate entities to establish and operate mobile
20 forensic centers.

21 “(5) USE OF FUNDS.—

22 “(A) DEVELOPMENT OF FORENSIC MARK-
23 ERS AND METHODOLOGIES.—An entity that re-
24 ceives a grant under this subsection shall use
25 funds made available through the grant to as-

1 sist in the determination of whether abuse or
2 neglect occurred, a crime was committed, to
3 conduct research to describe and disseminate
4 information on—

5 “(i) forensic markers that indicate a
6 case in which elder abuse, neglect, or ex-
7 ploitation may have occurred; and

8 “(ii) methodologies for determining, in
9 such a case, when and how health care,
10 emergency service, social and protective
11 service, and legal service providers should
12 intervene and when the providers should
13 report the case to law enforcement authori-
14 ties.

15 “(B) APPLICATIONS.—An entity that re-
16 ceives a grant under this subsection shall use
17 funds made available through the grant to de-
18 velop forensic expertise regarding elder abuse,
19 neglect, and exploitation, in order to provide
20 medical and forensic evaluation, therapeutic
21 intervention, victim support and advocacy, case
22 review, and case tracking.

23 “(C) COLLECTION OF EVIDENCE.—An en-
24 tity operating a Center of Excellence described
25 in section 2222(b)(1) that receives a grant

1 under this subsection shall use funds made
2 available through the grant to develop the ca-
3 pacity to collect forensic evidence, including col-
4 lecting forensic evidence relating to a potential
5 determination of elder abuse, neglect, or exploi-
6 tation.

7 “(b) TRAINING TO DEVELOP EXPERTISE IN GERI-
8 ATRIC FORENSICS.—

9 “(1) FELLOWSHIP PROGRAMS.—

10 “(A) IN GENERAL.—The Secretary shall
11 provide fellowships to eligible individuals, to en-
12 able the individuals to obtain training through
13 a standard forensic science training program.

14 “(B) ELIGIBLE INDIVIDUALS.—To be eligi-
15 ble to receive a fellowship under this paragraph,
16 an individual shall be a physician who—

17 “(i) is board certified or board eligible
18 in internal medicine or family practice;

19 “(ii) has completed a program in geri-
20 atrics that meets such criteria as the Sec-
21 retary may prescribe; and

22 “(iii) has entered into an agreement
23 with the Secretary to provide the team
24 training described in subparagraph (C),

1 after receiving the training described in
2 subparagraph (A).

3 “(C) TEAM TRAINING.—An individual who
4 receives a fellowship under this paragraph shall
5 provide training in forensic geriatrics to inter-
6 disciplinary teams of health care professionals.

7 “(2) OTHER PROGRAMS.—The Secretary shall
8 establish programs, and make grants to carry out
9 the programs, to provide forensic training to experi-
10 enced geriatricians.

11 **“Subtitle C—Increasing Security,**
12 **Quality, and Consumer Informa-**
13 **tion for Long-Term Care**

14 **“CHAPTER 1—INCREASING SECURITY FOR**
15 **LONG-TERM CARE**

16 **“SEC. 2231. REPORTING TO LAW ENFORCEMENT OF CRIMES**
17 **OCCURRING IN FEDERALLY FUNDED LONG-**
18 **TERM CARE FACILITIES.**

19 “(a) DETERMINATION AND NOTIFICATION.—

20 “(1) DETERMINATION.—Except as provided in
21 paragraph (2), the owner or operator of each long-
22 term care facility that receives Federal funds shall
23 annually determine if the facility received an amount
24 of Federal funds that was not less than \$10,000
25 during the past year.

1 “(2) SINGLE POSITIVE DETERMINATION.—The
2 owner or operator shall make the determination for
3 a year unless the owner or operator determined that
4 the facility received that amount during any previous
5 year.

6 “(3) NOTIFICATION.—If the owner or operator
7 determines that the facility received that amount
8 during any year, the owner or operator shall annu-
9 ally notify each individual described in subsection (b)
10 of the obligation to comply with subsection (b).

11 “(b) REPORTING REQUIREMENT.—

12 “(1) IN GENERAL.—Each individual who is an
13 owner, operator, employee, manager, agent, or con-
14 tractor of a long-term care facility that is the sub-
15 ject of a determination described in subsection (a)(3)
16 shall report to 1 or more law enforcement entities
17 for the jurisdiction in which the facility is located,
18 any reasonable suspicion of a crime (as defined by
19 the law of the applicable political subdivision)
20 against any person who is a resident of or receiving
21 care from the facility.

22 “(2) TIMING.—If the events that cause the sus-
23 picion—

24 “(A) result in serious bodily injury, the in-
25 dividual shall report the suspicion immediately,

1 but not later than 2 hours after forming the
2 suspicion; and

3 “(B) do not result in serious bodily injury,
4 the individual shall report the suspicion not
5 later than 24 hours after forming the suspicion.

6 “(c) PENALTY.—

7 “(1) IN GENERAL.—If an individual described
8 in subsection (b) violates subsection (b)—

9 “(A) the individual shall be fined not more
10 than \$200,000 or subject to a civil money pen-
11 alty of not more than \$200,000; or

12 “(B) the Secretary shall classify the indi-
13 vidual as an excluded individual, for a period of
14 not more than 3 years.

15 “(2) INCREASED HARM.—If an individual de-
16 scribed in subsection (b) violates subsection (b), and
17 the violation exacerbates the harm to the victim of
18 the crime or results in harm to another person—

19 “(A) the individual shall be fined not more
20 than \$200,000 or subject to a civil money pen-
21 alty of not more than \$200,000; and

22 “(B) the Secretary shall classify the indi-
23 vidual as an excluded individual, for a period of
24 not more than 3 years.

1 “(3) EXCLUDED INDIVIDUAL.—During any pe-
 2 riod for which an individual is classified as an ex-
 3 cluded individual under this paragraph, an entity
 4 that employs the individual shall be ineligible to re-
 5 ceive funds under the medicare program under title
 6 XVIII or the medicaid program under title XIX.

7 “(4) EXTENUATING CIRCUMSTANCES.—The
 8 Secretary may take into account the financial bur-
 9 den on providers with underserved populations in de-
 10 termining the penalty.

11 “(d) REGULATIONS.—The Secretary, after consulting
 12 with the Attorney General, shall issue regulations to carry
 13 out this section.

14 **“CHAPTER 2—IMPROVING THE QUALITY** 15 **OF LONG-TERM CARE**

16 **“SEC. 2241. GRANTS AND INCENTIVES TO ENHANCE LONG-** 17 **TERM CARE STAFFING.**

18 “(a) GENERAL AUTHORITY.—The Administrator of
 19 the Centers for Medicare & Medicaid Services (in this sec-
 20 tion referred to as the ‘Administrator’) shall carry out ac-
 21 tivities, including activities described in subsection (b) and
 22 (c), to provide incentives for individuals to train for, seek,
 23 and maintain employment providing direct care in a long-
 24 term care facility.

1 “(b) SPECIFIC PROGRAMS TO ENHANCE TRAINING,
2 RECRUITMENT, AND RETENTION OF STAFF.—

3 “(1) COORDINATION WITH OTHER PROGRAMS
4 TO RECRUIT AND TRAIN LONG-TERM CARE STAFF.—
5 The Administrator shall coordinate activities with
6 the Secretary of Labor and the Assistant Secretary
7 for the Administration for Children and Families, in
8 order to provide incentives to participants in pro-
9 grams carried out under section 403(a)(5) and part
10 A of title IV to train for and seek employment pro-
11 viding direct care in a long-term care facility.

12 “(2) CAREER LADDERS AND WAGE OR BENEFIT
13 INCREASES TO INCREASE STAFFING IN LONG-TERM
14 CARE FACILITIES.—

15 “(A) IN GENERAL.—The Administrator
16 shall make grants to eligible entities to carry
17 out programs through which the entities—

18 “(i) offer, to employees who provide
19 direct care in a long-term care facility,
20 continuing training and varying levels of
21 certification, based on observed clinical
22 care practices and the amount of time the
23 employees spend providing direct care; and

24 “(ii) provide, or make arrangements
25 with employers to provide, bonuses or

1 other increased compensation or benefits to
2 employees who achieve certification under
3 such a program.

4 “(B) APPLICATION.—To be eligible to re-
5 ceive a grant under this paragraph, an entity
6 shall submit an application to the Adminis-
7 trator at such time, in such manner, and con-
8 taining such information as the Administrator
9 may require.

10 “(c) SPECIFIC PROGRAMS TO IMPROVE MANAGE-
11 MENT PRACTICES.—

12 “(1) IN GENERAL.—The Administrator shall
13 make grants to eligible organizations to enable the
14 organizations to provide training and technical as-
15 sistance to eligible persons (including administra-
16 tors, directors of nursing, staff developers, and
17 charge nurses) who establish or implement manage-
18 ment practices for long-term care facilities.

19 “(2) USE OF FUNDS.—An organization that re-
20 ceives a grant under paragraph (1) shall use funds
21 made available through the grant—

22 “(A) to provide training and technical as-
23 sistance regarding management practices, that
24 are for employees that provide direct care in a
25 long-term care facility, and that are dem-

onstrated to promote retention of those employees, such as—

“(i) the establishment of basic human resource policies that reward high performance, including policies that provide for improved wages and benefits on the basis of job reviews;

“(ii) the establishment of motivational and thoughtful work organization practices;

“(iii) the creation of a workplace culture that respects and values caregivers and their needs;

“(iv) the promotion of a workplace culture that respects the rights of residents of a long-term care facility and results in improved care for the residents; and

“(v) the establishment of other programs that promote the provision of high quality care, such as a continuing education program that provides additional hours of training, including on-the-job training, for employees who are certified nurse aides; or

1 “(B) to disseminate training materials for
2 the training described in subparagraph (A), and
3 to provide the materials to the National Elder
4 Justice Library established in section
5 2221(a)(4), so that the materials are available
6 to other providers of such training.

7 “(3) APPLICATION.—To be eligible to receive a
8 grant under this subsection, an organization shall
9 submit an application to the Administrator at such
10 time, in such manner, and containing such informa-
11 tion as the Administrator may require.

12 “(d) EVALUATING PROGRAMS.—After the first pro-
13 grams developed under this section have been completed,
14 the Administrator shall evaluate the outcomes of such pro-
15 grams in determining which future applications to fund.

16 “(e) ACCOUNTABILITY MEASURES.—The Adminis-
17 trator shall develop accountability measures to assure that
18 funds made available under this section benefit the staff
19 who are the intended beneficiaries of the programs pro-
20 vided under this section, to promote increases and stability
21 in the long-term care workforce.

22 “(f) COMPLIANCE WITH APPLICABLE LAWS.—In
23 order to receive funds under this section, an eligible entity
24 shall comply with all applicable laws, regulations, and
25 guidelines.

1 **“SEC. 2242. COLLABORATIVE EFFORTS TO ENHANCE COM-**
2 **MUNICATION ON PROMOTING QUALITY OF**
3 **AND PREVENTING ABUSE AND NEGLECT IN**
4 **LONG-TERM CARE.**

5 “(a) IN GENERAL.—The Director of the Agency for
6 Healthcare Research and Quality (in this section referred
7 to as the ‘Director’), after consultation with the Attorney
8 General, may establish pilot projects to improve long-term
9 care. In carrying out the projects, the Director shall make
10 grants to eligible partnerships to develop collaborative and
11 innovative approaches to improve the quality of, including
12 preventing abuse and neglect in, long-term care.

13 “(b) ELIGIBLE PARTNERSHIPS.—To be eligible to re-
14 ceive a grant under this section, a partnership shall be
15 a multidisciplinary community partnership, such as a
16 partnership consisting of representatives in a community
17 of nursing facility providers, advocates for residents of
18 long-term care facilities, State Long-Term Care Ombuds-
19 men, surveyors, the State agency with responsibility for
20 adult protective services, the State agency with responsi-
21 bility for licensing long-term care facilities, law enforce-
22 ment agencies, courts, family councils, residents, certified
23 nurse aides, registered nurses, physicians, and other ap-
24 propriate entities and individuals.

25 “(c) APPLICATION.—To be eligible to receive a grant
26 under this section, a partnership shall submit an applica-

1 tion to the Director at such time, in such manner, and
2 containing such information as the Director may require.

3 **“SEC. 2243. COLLABORATIVE EFFORTS TO DEVELOP CON-**
4 **SENSUS AROUND THE MANAGEMENT OF CER-**
5 **TAIN QUALITY-RELATED FACTORS.**

6 “(a) IN GENERAL.—The Director of the Agency for
7 Healthcare Research and Quality (in this section referred
8 to as the ‘Director’), after consultation with the Attorney
9 General and the Advisory Board established under section
10 2214, may make grants to eligible entities to establish
11 multidisciplinary panels to address, and develop consensus
12 on, subjects relating to improving the quality of long-term
13 care. The Director shall make a limited number of such
14 grants, including at least 1 grant for the establishment
15 of such a panel to address, and develop consensus on,
16 methods of managing resident-to-resident abuse in long-
17 term care.

18 “(b) USE OF FUNDS.—An entity that receives a
19 grant under this section shall—

20 “(1) establish a multidisciplinary panel to ad-
21 dress a specific subject; and

22 “(2) ensure that the panel uses the funds made
23 available through the grant to establish a goal with
24 respect to the subject, examine relevant research and
25 data, identify best practices with respect to the sub-

1 ject, determine the best way to carry out those best
 2 practices in a practical and feasible manner, and de-
 3 termine an effective manner of distributing informa-
 4 tion on the subject.

5 “(c) APPLICATION.—To be eligible to receive a grant
 6 under this section, an entity shall submit an application
 7 to the Director at such time, in such manner, and con-
 8 taining such information as the Director may require.

9 **“CHAPTER 3—INCREASING CONSUMER**
 10 **INFORMATION ABOUT LONG-TERM CARE**

11 **“SEC. 2251. LONG-TERM CARE CONSUMER CLEARING-**
 12 **HOUSE.**

13 “(a) IN GENERAL.—The Director of the Office of
 14 Elder Justice in the Department of Health and Human
 15 Services, in coordination with the Director of the Agency
 16 for Healthcare Research and Quality and the Adminis-
 17 trator of the Centers for Medicare & Medicaid Services,
 18 shall establish a long-term care consumer clearinghouse in
 19 the Department of Health and Human Services.

20 “(b) INFORMATION.—The clearinghouse shall be es-
 21 tablished as part of the Elder Justice Resource Center (es-
 22 tablished under section 2221) and shall provide com-
 23 prehensive detailed information, in a consumer-friendly
 24 form, to consumers about choices relating to long-term
 25 care providers, such as information (including links to

1 websites and other resources that provide information)
2 about—

3 “(1) obtaining the services of, and employing,
4 caregivers who provide long-term care at an individ-
5 ual’s home; and

6 “(2) options for residential long-term care, such
7 as—

8 “(A)(i) the type of care provided by nurs-
9 ing facilities; and

10 “(ii) the type of care provided by group
11 homes and other residential long-term care fa-
12 cilities that are not nursing facilities;

13 “(B) the benefits available through the
14 programs carried out under titles XVIII and
15 XIX of the Social Security Act (42 U.S.C. 1395
16 et seq. and 1396 et seq.); and

17 “(C) the care available through specific
18 long-term care facilities, including data on the
19 satisfaction level of residents of, and families of
20 residents of, the facilities.

21 “(c) PROVIDERS.—In providing information on long-
22 term care providers under this section, the clearinghouse
23 shall provide information (from States and other sources)
24 on assisted living facilities, board and care facilities, con-

1 gregate care facilities, home health care providers, and
2 other long-term care providers.

3 **“SEC. 2252. CONSUMER INFORMATION ABOUT THE CON-**
4 **TINUUM OF RESIDENTIAL LONG-TERM CARE**
5 **FACILITIES.**

6 “(a) STUDY.—

7 “(1) IN GENERAL.—The Director of the Agency
8 for Healthcare Research and Quality, after consulta-
9 tion with the Director of the Office of Elder Justice
10 in the Department of Health and Human Services
11 and the Director of the Office of Elder Justice in
12 the Department of Justice shall, directly or through
13 a grant, conduct a study on consumer concerns re-
14 lating to residential long-term care facilities, other
15 than nursing facilities.

16 “(2) SPECIFIC TOPICS.—The entity conducting
17 the study shall—

18 “(A) develop definitions for classes of the
19 residential long-term care facilities described in
20 paragraph (1); and

21 “(B) collect information on the prices of,
22 level of services provided by, oversight and en-
23 forcement provisions of, and admission and dis-
24 charge criteria of, the facilities.

1 “(b) REPORT.—The Director of the Agency for
 2 Healthcare Research and Quality shall prepare a report
 3 containing the results of the study, and submit the report
 4 to the Elder Justice Coordinating Council established
 5 under section 2213, the Committee on Ways and Means
 6 of the House of Representatives, and the Special Com-
 7 mittee on Aging of the Senate.

8 **“Subtitle D—Administration**

9 **“SEC. 2261. EVALUATIONS.**

10 “(a) GRANTS.—

11 “(1) IN GENERAL.—In making a grant under a
 12 provision of this title (other than this section), the
 13 granting authority shall—

14 “(A) require the recipient of the grant
 15 to—

16 “(i) reserve a portion of the funds
 17 made available through the grant; and

18 “(ii) use the reserved funds to conduct
 19 an evaluation of the other activities carried
 20 out through the grant; or

21 “(B)(i) reserve a portion of the funds
 22 available for the grant; and

23 “(ii) use the reserved funds to provide as-
 24 sistance to an eligible entity to conduct an eval-

1 uation of the activities carried out through the
2 grant.

3 “(2) USE OF FUNDS.—A recipient of a grant
4 described in paragraph (1)(A), or assistance de-
5 scribed in paragraph (1)(B)(ii), shall use the funds
6 made available through the grant, or the assistance,
7 respectively, to conduct a validated evaluation of the
8 effectiveness of the activities described in subpara-
9 graph (A) or (B), respectively, of paragraph (1).

10 “(3) APPLICATIONS.—

11 “(A) SUBMISSION.—

12 “(i) GRANTS FOR PROJECTS CON-
13 TAINING EVALUATIONS.—To be eligible to
14 receive a grant for which the granting au-
15 thority requires the reservation described
16 in paragraph (1)(A)(i), an entity shall in-
17 clude a proposal for the evaluation in the
18 application submitted for the grant.

19 “(ii) ASSISTANCE FOR EVALUA-
20 TIONS.—To be eligible to receive assistance
21 under paragraph (1)(B)(ii), an entity shall
22 submit an application to the granting au-
23 thority at such time, in such manner, and
24 containing such information as the grant-

1 ing authority may require, including a pro-
2 posal for the evaluation.

3 “(B) REVIEW AND ASSISTANCE.—An em-
4 ployee of the National Institute on Aging, and
5 a private expert, with expertise in evaluation
6 methodology shall review each proposal de-
7 scribed in clause (i) or (ii) of subparagraph (A),
8 and determine whether the methodology de-
9 scribed in the proposal is adequate to gather
10 meaningful information. If the employee and
11 expert determine that the methodology is inad-
12 equate, the employee and expert shall rec-
13 ommend that the granting authority deny the
14 application for the grant described in subpara-
15 graph (A)(i), or the assistance described in sub-
16 paragraph (B)(ii), as appropriate, or make rec-
17 ommendations for how the application should
18 be amended. If the granting authority denies
19 the application on the basis of the proposal, the
20 granting authority shall inform the applicant
21 why the application was denied, and offer as-
22 sistance to the applicant in modifying the pro-
23 posal.

24 “(b) OTHER GRANTS.—The granting authority shall
25 make grants to appropriate entities to conduct validated

1 evaluations of activities, to reduce elder abuse, neglect,
2 and exploitation, that are not funded under this title.

3 “(c) CONDITION OF PARTICIPATION.—As a condition
4 of participation in any grant under this title, individuals,
5 facilities, and other entities shall agree to be subject to
6 sections 3729 through 3733 of title 31, United States
7 Code and other applicable laws.

8 **“SEC. 2262. HUMAN SUBJECT RESEARCH.**

9 “(a) IN GENERAL.—For purposes of the application
10 of subpart A of part 46 of title 45, Code of Federal Regu-
11 lations to research conducted under this title, the term ‘le-
12 gally authorized representative’ means, unless otherwise
13 provided by law, the individual, or judicial or other body
14 authorized under the applicable law to consent to medical
15 treatment on behalf of another person.

16 “(b) GUIDELINES.—The Secretary of Health and
17 Human Services, through the Director of the National In-
18 stitute on Aging, after consultation with the Director of
19 the Office for Human Research Protections and the Excel-
20 lence Advisory Committee established under section
21 2222(b)(5), shall promulgate guidelines to assist research-
22 ers working in the area of elder abuse, neglect, and exploi-
23 tation, with issues relating to human subject protections.

1 **“SEC. 2263. REGULATIONS.**

2 “The Secretary may issue such regulations as may
3 be necessary to carry out this title.

4 **“SEC. 2264. AUTHORIZATION OF APPROPRIATIONS.**

5 “There are authorized to be appropriated to carry out
6 this title such sums as may be necessary for each of fiscal
7 years 2004 through 2010.”.

8 **SEC. 102. PATIENT ABUSE PREVENTION.**

9 (a) ESTABLISHMENT OF PROGRAM TO PREVENT
10 ABUSE OF NURSING FACILITY RESIDENTS.—

11 (1) SCREENING OF SKILLED NURSING FACILITY
12 AND NURSING FACILITY EMPLOYEE APPLICANTS.—

13 (A) MEDICARE PROGRAM.—Section
14 1819(b) of the Social Security Act (42 U.S.C.
15 1395i–3(b)) is amended by adding at the end
16 the following:

17 “(8) SCREENING OF SKILLED NURSING FACIL-
18 ITY WORKERS.—

19 “(A) BACKGROUND CHECKS ON APPLI-
20 CANTS.—Subject to subparagraph (B)(ii), be-
21 fore hiring a skilled nursing facility worker, a
22 skilled nursing facility shall—

23 “(i) give the worker written notice
24 that the facility is required to perform
25 background checks with respect to appli-
26 cants;

1 “(ii) require, as a condition of employ-
2 ment, that such worker—

3 “(I) provide a written statement
4 disclosing any conviction for a rel-
5 evant crime;

6 “(II) provide a statement signed
7 by the worker authorizing the facility
8 to request the search and exchange of
9 criminal records;

10 “(III) provide in person to the
11 facility a copy of the worker’s finger-
12 prints or thumb print, depending
13 upon available technology; and

14 “(IV) provide any other identi-
15 fication information the Secretary
16 may specify in regulation; and

17 “(iii) request through the appropriate
18 State agency that the State initiate a State
19 and national criminal background check on
20 such worker in accordance with the provi-
21 sions of subsection (e)(6) and submit to
22 such State agency the information de-
23 scribed in subclauses (II) through (IV) of
24 clause (ii).

1 “(B) PROHIBITION ON HIRING OF ABUSIVE
2 WORKERS.—

3 “(i) IN GENERAL.—A skilled nursing
4 facility may not knowingly employ any
5 skilled nursing facility worker who has any
6 conviction for a relevant crime.

7 “(ii) PROVISIONAL EMPLOYMENT.—
8 After complying with the requirements of
9 clauses (i) and (ii) of subparagraph (A), a
10 skilled nursing facility may provide for a
11 provisional period of employment for a
12 skilled nursing facility worker pending
13 completion of the check against the back-
14 ground check described under subpara-
15 graph (A)(iii). Subject to clause (iii), such
16 facility shall maintain direct supervision of
17 the covered individual during the worker’s
18 provisional period of employment.

19 “(iii) EXCEPTION FOR SMALL RURAL
20 SKILLED NURSING FACILITIES.—In the
21 case of a small rural skilled nursing facility
22 (as defined by the Secretary), the Sec-
23 retary shall provide, by regulation after
24 consultation with providers of skilled nurs-
25 ing facility services and entities rep-

1 resenting beneficiaries of such services, for
2 an appropriate level of supervision with re-
3 spect to any provisional employees em-
4 ployed by the facility in accordance with
5 clause (ii). Such regulation should encour-
6 age the provision of direct supervision of
7 such employees whenever practicable with
8 respect to such a facility and if such super-
9 vision would not impose an unreasonable
10 cost or other burden on the facility.

11 “(C) REPORTING REQUIREMENTS.—A
12 skilled nursing facility shall report to the State
13 any instance in which the facility determines
14 that a skilled nursing facility worker has com-
15 mitted an act of resident neglect or abuse or
16 misappropriation of resident property in the
17 course of employment by the facility.

18 “(D) USE OF INFORMATION.—

19 “(i) IN GENERAL.—A skilled nursing
20 facility that obtains information about a
21 skilled nursing facility worker pursuant to
22 subparagraph (A)(iii) may use such infor-
23 mation only for the purpose of determining
24 the suitability of the worker for employ-
25 ment.

1 “(ii) IMMUNITY FROM LIABILITY.—A
2 skilled nursing facility that, in denying em-
3 ployment for an applicant (including dur-
4 ing the period described in subparagraph
5 (B)(ii)), reasonably relies upon information
6 about such applicant provided by the State
7 pursuant to subsection (e)(6) shall not be
8 liable in any action brought by such appli-
9 cant based on the employment determina-
10 tion resulting from the information.

11 “(iii) CRIMINAL PENALTY.—Whoever
12 knowingly violates the provisions of clause
13 (i) shall be fined in accordance with title
14 18, United States Code, imprisoned for not
15 more than 2 years, or both.

16 “(E) CIVIL PENALTY.—

17 “(i) IN GENERAL.—A skilled nursing
18 facility that violates the provisions of this
19 paragraph shall be subject to a civil pen-
20 alty in an amount not to exceed—

21 “(I) for the first such violation,
22 \$2,000; and

23 “(II) for the second and each
24 subsequent violation within any 5-year
25 period, \$5,000.

1 “(ii) KNOWING RETENTION OF WORK-
 2 ER.—In addition to any civil penalty under
 3 clause (i), a skilled nursing facility that—

4 “(I) knowingly continues to em-
 5 ploy a skilled nursing facility worker
 6 in violation of subparagraph (A) or
 7 (B); or

8 “(II) knowingly fails to report a
 9 skilled nursing facility worker under
 10 subparagraph (C),
 11 shall be subject to a civil penalty in an
 12 amount not to exceed \$5,000 for the first
 13 such violation, and \$10,000 for the second
 14 and each subsequent violation within any
 15 5-year period.

16 “(F) DEFINITIONS.—In this paragraph:

17 “(i) CONVICTION FOR A RELEVANT
 18 CRIME.—The term ‘conviction for a rel-
 19 evant crime’ means any Federal or State
 20 criminal conviction for—

21 “(I) any offense described in
 22 paragraphs (1) through (4) of section
 23 1128(a); and

24 “(II) such other types of offenses
 25 as the Secretary may specify in regu-

1 lations, taking into account the sever-
2 ity and relevance of such offenses, and
3 after consultation with representatives
4 of long-term care providers, represent-
5 atives of long-term care employees,
6 consumer advocates, and appropriate
7 Federal and State officials.

8 “(ii) DISQUALIFYING INFORMATION.—

9 The term ‘disqualifying information’ means
10 information about a conviction for a rel-
11 evant crime.

12 “(iii) SKILLED NURSING FACILITY

13 WORKER.—The term ‘skilled nursing facil-
14 ity worker’ means any individual (other
15 than a volunteer) that has access to a pa-
16 tient of a skilled nursing facility under an
17 employment or other contract, or both,
18 with such facility. Such term includes indi-
19 viduals who are licensed or certified by the
20 State to provide such services, and non-
21 licensed individuals providing such services,
22 as defined by the Secretary, including
23 nurse assistants, nurse aides, home health
24 aides, and personal care workers and at-
25 tendants.”.

1 (B) MEDICAID PROGRAM.—Section
2 1919(b) of the Social Security Act (42 U.S.C.
3 1396r(b)) is amended by adding at the end the
4 following new paragraph:

5 “(9) SCREENING OF NURSING FACILITY WORK-
6 ERS.—

7 “(A) BACKGROUND CHECKS ON APPLI-
8 CANTS.—Subject to subparagraph (B)(ii), be-
9 fore hiring a nursing facility worker, a nursing
10 facility shall—

11 “(i) give the worker written notice
12 that the facility is required to perform
13 background checks with respect to appli-
14 cants;

15 “(ii) require, as a condition of employ-
16 ment, that such worker—

17 “(I) provide a written statement
18 disclosing any conviction for a rel-
19 evant crime;

20 “(II) provide a statement signed
21 by the worker authorizing the facility
22 to request the search and exchange of
23 criminal records;

24 “(III) provide in person to the
25 facility a copy of the worker’s finger-

1 prints or thumb print, depending
2 upon available technology; and

3 “(IV) provide any other identi-
4 fication information the Secretary
5 may specify in regulation; and

6 “(iii) request through the appropriate
7 State agency that the State initiate a State
8 and national criminal background check on
9 such worker in accordance with the provi-
10 sions of subsection (e)(8) and submit to
11 such State agency the information de-
12 scribed in subclauses (II) through (IV) of
13 clause (ii).

14 “(B) PROHIBITION ON HIRING.—

15 “(i) IN GENERAL.—A nursing facility
16 may not knowingly employ any nursing fa-
17 cility worker who has any conviction for a
18 relevant crime.

19 “(ii) PROVISIONAL EMPLOYMENT.—
20 After complying with the requirements of
21 clauses (i) and (ii) of subparagraph (A), a
22 nursing facility may provide for a provi-
23 sional period of employment for a nursing
24 facility worker pending completion of the
25 check against the background check de-

1 scribed under subparagraph (A)(iii). Sub-
2 ject to clause (iii), such facility shall main-
3 tain direct supervision of the worker dur-
4 ing the worker's provisional period of em-
5 ployment.

6 “(iii) EXCEPTION FOR SMALL RURAL
7 NURSING FACILITIES.—In the case of a
8 small rural nursing facility (as defined by
9 the Secretary), the Secretary shall provide,
10 by regulation after consultation with pro-
11 viders of nursing facility services and enti-
12 ties representing beneficiaries of such serv-
13 ices, for an appropriate level of supervision
14 with respect to any provisional employees
15 employed by the facility in accordance with
16 clause (ii). Such regulation should encour-
17 age the provision of direct supervision of
18 such employees whenever practicable with
19 respect to such a facility and if such super-
20 vision would not impose an unreasonable
21 cost or other burden on the facility.

22 “(C) REPORTING REQUIREMENTS.—A
23 nursing facility shall report to the State any in-
24 stance in which the facility determines that a
25 nursing facility worker has committed an act of

1 resident neglect or abuse or misappropriation of
2 resident property in the course of employment
3 by the facility.

4 “(D) USE OF INFORMATION.—

5 “(i) IN GENERAL.—A nursing facility
6 that obtains information about a nursing
7 facility worker pursuant to subparagraph
8 (A)(iii) may use such information only for
9 the purpose of determining the suitability
10 of the worker for employment.

11 “(ii) IMMUNITY FROM LIABILITY.—A
12 nursing facility that, in denying employ-
13 ment for an applicant (including during
14 the period described in subparagraph
15 (B)(ii)), reasonably relies upon information
16 about such applicant provided by the State
17 pursuant to subsection (e)(8) shall not be
18 liable in any action brought by such appli-
19 cant based on the employment determina-
20 tion resulting from the information.

21 “(iii) CRIMINAL PENALTY.—Whoever
22 knowingly violates the provisions of clause
23 (i) shall be fined in accordance with title
24 18, United States Code, imprisoned for not
25 more than 2 years, or both.

1 “(E) CIVIL PENALTY.—

2 “(i) IN GENERAL.—A nursing facility
3 that violates the provisions of this para-
4 graph shall be subject to a civil penalty in
5 an amount not to exceed—

6 “(I) for the first such violation,
7 \$2,000; and

8 “(II) for the second and each
9 subsequent violation within any 5-year
10 period, \$5,000.

11 “(ii) KNOWING RETENTION OF WORK-
12 ER.—In addition to any civil penalty under
13 clause (i), a nursing facility that—

14 “(I) knowingly continues to em-
15 ploy a nursing facility worker in viola-
16 tion of subparagraph (A) or (B); or

17 “(II) knowingly fails to report a
18 nursing facility worker under subpara-
19 graph (C),

20 shall be subject to a civil penalty in an
21 amount not to exceed \$5,000 for the first
22 such violation, and \$10,000 for the second
23 and each subsequent violation within any
24 5-year period.

25 “(F) DEFINITIONS.—In this paragraph:

1 “(i) CONVICTION FOR A RELEVANT
2 CRIME.—The term ‘conviction for a rel-
3 evant crime’ means any Federal or State
4 criminal conviction for—

5 “(I) any offense described in
6 paragraphs (1) through (4) of section
7 1128(a); and

8 “(II) such other types of offenses
9 as the Secretary may specify in regu-
10 lations, taking into account the sever-
11 ity and relevance of such offenses, and
12 after consultation with representatives
13 of long-term care providers, represent-
14 atives of long-term care employees,
15 consumer advocates, and appropriate
16 Federal and State officials.

17 “(ii) DISQUALIFYING INFORMATION.—
18 The term ‘disqualifying information’ means
19 information about a conviction for a rel-
20 evant crime.

21 “(iii) NURSING FACILITY WORKER.—
22 The term ‘nursing facility worker’ means
23 any individual (other than a volunteer)
24 that has access to a patient of a nursing
25 facility under an employment or other con-

1 tract, or both, with such facility. Such
2 term includes individuals who are licensed
3 or certified by the State to provide such
4 services, and nonlicensed individuals pro-
5 viding such services, as defined by the Sec-
6 retary, including nurse assistants, nurse
7 aides, home health aides, and personal care
8 workers and attendants.”.

9 (C) FEDERAL RESPONSIBILITIES.—

10 (i) DEVELOPMENT OF STANDARD
11 FEDERAL AND STATE BACKGROUND CHECK
12 FORM.—The Secretary of Health and
13 Human Services, after consultation with
14 the Attorney General and representatives
15 of appropriate State agencies, shall develop
16 a model form that an applicant for employ-
17 ment at a nursing facility may complete
18 and Federal and State agencies may use to
19 conduct the criminal background checks
20 required under sections 1819(b)(8) and
21 1919(b)(8) of the Social Security Act (42
22 U.S.C. 1395i–3(b)(8), 1396r(b)(8)) (as
23 added by this section).

24 (ii) PERIODIC EVALUATION.—The
25 Secretary of Health and Human Services,

1 after consultation with the Attorney Gen-
2 eral, periodically shall evaluate the back-
3 ground check system imposed under sec-
4 tions 1819(b)(8) and 1919(b)(8) of the So-
5 cial Security Act (42 U.S.C. 1395i-
6 3(b)(8), 1396r(b)(8)) (as added by this
7 section) and shall implement changes, as
8 necessary, based on available technology,
9 to make the background check system
10 more efficient and able to provide a more
11 immediate response to long-term care pro-
12 viders using the system.

13 (D) NO PREEMPTION OF STRICTER STATE
14 LAWS.—Nothing in section 1819(b)(8) or
15 1919(b)(8) of the Social Security Act (42
16 U.S.C. 1395i-3(b)(8), 1396r(b)(8)) (as so
17 added) shall be construed to supersede any pro-
18 vision of State law that—

19 (i) specifies a relevant crime for pur-
20 poses of prohibiting the employment of an
21 individual at a long-term care facility that
22 is not included in the list of such crimes
23 specified in such sections or in regulations
24 promulgated by the Secretary of Health

1 and Human Services to carry out such sec-
2 tions; or

3 (ii) requires a long-term care facility
4 (as so defined) to conduct a background
5 check prior to employing an individual in
6 an employment position that is not in-
7 cluded in the positions for which a back-
8 ground check is required under such sec-
9 tions.

10 (E) TECHNICAL AMENDMENTS.—Effective
11 as if included in the enactment of section 941
12 of the Medicare, Medicaid, and SCHIP Benefits
13 Improvement and Protection Act of 2000 (114
14 Stat. 2763A–585), as enacted into law by sec-
15 tion 1(a)(6) of Public Law 106–554, sections
16 1819(b) and 1919(b) of the Social Security Act
17 (42 U.S.C. 1395i–3(b), 1396r(b)), as amended
18 by such section 941 (as so enacted into law) are
19 each amended by redesignating the paragraph
20 (8) added by such section as paragraph (9).

21 (2) FEDERAL AND STATE REQUIREMENTS CON-
22 CERNING BACKGROUND CHECKS.—

23 (A) MEDICARE.—Section 1819(e) of the
24 Social Security Act (42 U.S.C. 1395i–3(e)) is
25 amended by adding at the end the following:

1 “(6) FEDERAL AND STATE REQUIREMENTS
2 CONCERNING CRIMINAL BACKGROUND CHECKS ON
3 SKILLED NURSING FACILITY EMPLOYEES.—

4 “(A) IN GENERAL.—Upon receipt of a re-
5 quest by a skilled nursing facility pursuant to
6 subsection (b)(8) that is accompanied by the in-
7 formation described in subclauses (II) through
8 (IV) of subsection (b)(8)(A)(ii), a State, after
9 checking appropriate State records and finding
10 no disqualifying information (as defined in sub-
11 section (b)(8)(F)(ii)), shall immediately submit
12 such request and information to the Attorney
13 General and shall request the Attorney General
14 to conduct a search and exchange of records
15 with respect to the individual as described in
16 subparagraph (B).

17 “(B) SEARCH AND EXCHANGE OF
18 RECORDS BY ATTORNEY GENERAL.—Upon re-
19 ceipt of a submission pursuant to subparagraph
20 (A), the Attorney General shall direct a search
21 of the records of the Federal Bureau of Inves-
22 tigation for any criminal history records cor-
23 responding to the fingerprints and other posi-
24 tive identification information submitted. The
25 Attorney General shall provide any cor-

1 responding information resulting from the
2 search to the State.

3 “(C) STATE REPORTING OF INFORMATION
4 TO SKILLED NURSING FACILITY.—Upon receipt
5 of the information provided by the Attorney
6 General pursuant to subparagraph (B), the
7 State shall—

8 “(i) review the information to deter-
9 mine whether the individual has any con-
10 viction for a relevant crime (as defined in
11 subsection (b)(8)(F)(i)); and

12 “(ii) immediately report to the skilled
13 nursing facility in writing the results of
14 such review.

15 “(D) FEES FOR PERFORMANCE OF CRIMI-
16 NAL BACKGROUND CHECKS.—

17 “(i) AUTHORITY TO CHARGE FEES.—

18 “(I) ATTORNEY GENERAL.—The
19 Attorney General may charge a fee to
20 any State requesting a search and ex-
21 change of records pursuant to this
22 paragraph and subsection (b)(8) for
23 conducting the search and providing
24 the records. The amount of such fee
25 shall not exceed the lesser of the ac-

1 tual cost of such activities or \$50.
2 Such fees shall be available to the At-
3 torney General, or, in the Attorney
4 General's discretion, to the Federal
5 Bureau of Investigation until ex-
6 pended.

7 “(II) STATE.—A State may
8 charge a skilled nursing facility a fee
9 for initiating the criminal background
10 check under this paragraph and sub-
11 section (b)(8), including fees charged
12 by the Attorney General, and for per-
13 forming the review and report re-
14 quired by subparagraph (C). The
15 amount of such fee shall not exceed
16 the actual cost of such activities.

17 “(ii) PROHIBITION ON CHARGING AP-
18 PPLICANTS OR EMPLOYEES.—An entity may
19 not impose on an applicant for employment
20 or an employee any charges relating to the
21 performance of a background check under
22 this paragraph.

23 “(E) REGULATIONS.—

24 “(i) IN GENERAL.—In addition to the
25 Secretary's authority to promulgate regula-

1 tions under this title, the Attorney Gen-
2 eral, after consultation with the Secretary,
3 may promulgate such regulations as are
4 necessary to carry out the Attorney Gen-
5 eral's responsibilities under this paragraph
6 and subsection (b)(8), including regula-
7 tions regarding the security confidentiality,
8 accuracy, use, destruction, and dissemina-
9 tion of information, audits and record-
10 keeping, and the imposition of fees.

11 “(ii) APPEAL PROCEDURES.—The At-
12 torney General, after consultation with the
13 Secretary, shall promulgate such regula-
14 tions as are necessary to establish proce-
15 dures by which an applicant or employee
16 may appeal or dispute the accuracy of the
17 information obtained in a background
18 check conducted under this paragraph. Ap-
19 peals shall be limited to instances in which
20 an applicant or employee is incorrectly
21 identified as the subject of the background
22 check, or when information about the ap-
23 plicant or employee has not been updated
24 to reflect changes in the applicant's or em-
25 ployee's criminal record.

1 “(F) REPORT.—Not later than 2 years
2 after the date of enactment of this paragraph,
3 the Attorney General shall submit a report to
4 Congress on—

5 “(i) the number of requests for
6 searches and exchanges of records made
7 under this section;

8 “(ii) the disposition of such requests;
9 and

10 “(iii) the cost of responding to such
11 requests.”.

12 (B) MEDICAID.—Section 1919(e) of the
13 Social Security Act (42 U.S.C. 1396r(e)) is
14 amended by adding at the end the following:

15 “(8) FEDERAL AND STATE REQUIREMENTS
16 CONCERNING CRIMINAL BACKGROUND CHECKS ON
17 NURSING FACILITY EMPLOYEES.—

18 “(A) IN GENERAL.—Upon receipt of a re-
19 quest by a nursing facility pursuant to sub-
20 section (b)(8) that is accompanied by the infor-
21 mation described in subclauses (II) through
22 (IV) of subsection (b)(8)(A)(ii), a State, after
23 checking appropriate State records and finding
24 no disqualifying information (as defined in sub-
25 section (b)(8)(F)(ii)), shall immediately submit

1 such request and information to the Attorney
2 General and shall request the Attorney General
3 to conduct a search and exchange of records
4 with respect to the individual as described in
5 subparagraph (B).

6 “(B) SEARCH AND EXCHANGE OF
7 RECORDS BY ATTORNEY GENERAL.—Upon re-
8 ceipt of a submission pursuant to subparagraph
9 (A), the Attorney General shall direct a search
10 of the records of the Federal Bureau of Inves-
11 tigation for any criminal history records cor-
12 responding to the fingerprints and other posi-
13 tive identification information submitted. The
14 Attorney General shall provide any cor-
15 responding information resulting from the
16 search to the State.

17 “(C) STATE REPORTING OF INFORMATION
18 TO NURSING FACILITY.—Upon receipt of the in-
19 formation provided by the Attorney General
20 pursuant to subparagraph (B), the State
21 shall—

22 “(i) review the information to deter-
23 mine whether the individual has any con-
24 viction for a relevant crime (as defined in
25 subsection (b)(8)(F)(i)); and

1 “(ii) immediately report to the nurs-
2 ing facility in writing the results of such
3 review.

4 “(D) FEES FOR PERFORMANCE OF CRIMI-
5 NAL BACKGROUND CHECKS.—

6 “(i) AUTHORITY TO CHARGE FEES.—

7 “(I) ATTORNEY GENERAL.—The
8 Attorney General may charge a fee to
9 any State requesting a search and ex-
10 change of records pursuant to this
11 paragraph and subsection (b)(8) for
12 conducting the search and providing
13 the records. The amount of such fee
14 shall not exceed the lesser of the ac-
15 tual cost of such activities or \$50.
16 Such fees shall be available to the At-
17 torney General, or, in the Attorney
18 General’s discretion, to the Federal
19 Bureau of Investigation, until ex-
20 pended.

21 “(II) STATE.—A State may
22 charge a nursing facility a fee for ini-
23 tiating the criminal background check
24 under this paragraph and subsection
25 (b)(8), including fees charged by the

1 Attorney General, and for performing
2 the review and report required by sub-
3 paragraph (C). The amount of such
4 fee shall not exceed the actual cost of
5 such activities.

6 “(ii) PROHIBITION ON CHARGING AP-
7 PPLICANTS OR EMPLOYEES.—An entity may
8 not impose on an applicant for employment
9 or an employee any charges relating to the
10 performance of a background check under
11 this paragraph.

12 “(E) REGULATIONS.—

13 “(i) IN GENERAL.—In addition to the
14 Secretary’s authority to promulgate regula-
15 tions under this title, the Attorney Gen-
16 eral, after consultation with the Secretary,
17 may promulgate such regulations as are
18 necessary to carry out the Attorney Gen-
19 eral’s responsibilities under this paragraph
20 and subsection (b)(8), including regula-
21 tions regarding the security, confiden-
22 tiality, accuracy, use, destruction, and dis-
23 semination of information, audits and rec-
24 ordkeeping, and the imposition of fees.

1 “(ii) APPEAL PROCEDURES.—The At-
2 torney General, after consultation with the
3 Secretary, shall promulgate such regula-
4 tions as are necessary to establish proce-
5 dures by which an applicant or employee
6 may appeal or dispute the accuracy of the
7 information obtained in a background
8 check conducted under this paragraph. Ap-
9 peals shall be limited to instances in which
10 an applicant or employee is incorrectly
11 identified as the subject of the background
12 check, or when information about the ap-
13 plicant or employee has not been updated
14 to reflect changes in the applicant’s or em-
15 ployee’s criminal record.

16 “(F) REPORT.—Not later than 2 years
17 after the date of enactment of this paragraph,
18 the Attorney General shall submit a report to
19 Congress on—

20 “(i) the number of requests for
21 searches and exchanges of records made
22 under this section;

23 “(ii) the disposition of such requests;
24 and

1 “(iii) the cost of responding to such
2 requests.”.

3 (3) APPLICATION TO OTHER ENTITIES PRO-
4 VIDING HOME HEALTH OR LONG-TERM CARE SERV-
5 ICES.—

6 (A) MEDICARE.—Part D of title XVIII of
7 the Social Security Act (42 U.S.C. 1395x et
8 seq.) is amended by adding at the end the fol-
9 lowing:

10 “APPLICATION OF SKILLED NURSING FACILITY PREVEN-
11 TIVE ABUSE PROVISIONS TO ANY PROVIDER OF
12 SERVICES OR OTHER ENTITY PROVIDING HOME
13 HEALTH OR LONG-TERM CARE SERVICES

14 “SEC. 1897. (a) IN GENERAL.—The requirements of
15 subsections (b)(8) and (e)(6) of section 1819 shall apply
16 to any provider of services or any other entity that is eligi-
17 ble to be paid under this title for providing home health
18 services, hospice care (including routine home care and
19 other services included in hospice care under this title),
20 or long-term care services to an individual entitled to bene-
21 fits under part A or enrolled under part B, including an
22 individual provided with a Medicare+Choice plan offered
23 by a Medicare+Choice organization under part C (in this
24 section referred to as a ‘medicare beneficiary’).

25 “(b) SUPERVISION OF PROVISIONAL EMPLOYEES.—

1 “(1) IN GENERAL.—With respect to an entity
2 that provides home health services, such entity shall
3 be considered to have satisfied the requirements of
4 section 1819(b)(8)(B)(ii) or 1919(b)(8)(B)(ii) if the
5 entity meets such requirements for supervision of
6 provisional employees of the entity as the Secretary
7 shall, by regulation, specify in accordance with para-
8 graph (2).

9 “(2) REQUIREMENTS.—The regulations re-
10 quired under paragraph (1) shall provide the fol-
11 lowing:

12 “(A) Supervision of a provisional employee
13 shall consist of ongoing, good faith, verifiable
14 efforts by the supervisor of the provisional em-
15 ployee to conduct monitoring and oversight ac-
16 tivities to ensure the safety of a medicare bene-
17 ficiary.

18 “(B) For purposes of subparagraph (A),
19 monitoring and oversight activities may include
20 (but are not limited to) the following:

21 “(i) Follow-up telephone calls to the
22 medicare beneficiary.

23 “(ii) Unannounced visits to the medi-
24 care beneficiary’s home while the provi-

1 sional employee is serving the medicare
2 beneficiary.

3 “(iii) To the extent practicable, lim-
4 iting the provisional employee’s duties to
5 serving only those medicare beneficiaries in
6 a home or setting where another family
7 member or resident of the home or setting
8 of the medicare beneficiary is present.

9 “(C) In promulgating such regulations, the
10 Secretary shall take into account the staffing
11 and geographic issues faced by small rural enti-
12 ties (as defined by the Secretary) that provide
13 home health services, hospice care (including
14 routine home care and other services included
15 in hospice care under this title), or other long-
16 term care services. Such regulations should en-
17 courage the provision of monitoring and over-
18 sight activities whenever practicable with re-
19 spect to such an entity, and if such activities
20 would not impose an unreasonable cost or other
21 burden on the entity.”.

22 (B) MEDICAID.—Section 1902(a) of the
23 Social Security Act (42 U.S.C. 1396a) is
24 amended—

- 1 (i) in paragraph (64), by striking
2 “and” at the end;
3 (ii) in paragraph (65), by striking the
4 period and inserting “; and”; and
5 (iii) by inserting after paragraph (65)
6 the following:

7 “(66) provide that any entity that is eligible to
8 be paid under the State plan for providing home
9 health services, hospice care (including routine home
10 care and other services included in hospice care
11 under title XVIII), or long-term care services for
12 which medical assistance is available under the State
13 plan to individuals requiring long-term care complies
14 with the requirements of subsections (b)(8) and
15 (e)(8) of section 1919 and section 1897(b) (in the
16 same manner as such section applies to a medicare
17 beneficiary).”.

18 (b) PREVENTION AND TRAINING DEMONSTRATION
19 PROJECT.—

20 (1) ESTABLISHMENT.—The Secretary of Health
21 and Human Services shall establish a demonstration
22 program to provide grants to develop information on
23 best practices in patient abuse prevention training
24 (including behavior training and interventions) for

1 managers and staff of hospital and health care fa-
2 cilities.

3 (2) ELIGIBILITY.—To be eligible to receive a
4 grant under paragraph (1), an entity shall be a pub-
5 lic or private nonprofit entity and prepare and sub-
6 mit to the Secretary of Health and Human Services
7 an application at such time, in such manner, and
8 containing such information as the Secretary may
9 require.

10 (3) USE OF FUNDS.—Amounts received under a
11 grant under this subsection shall be used to—

12 (A) examine ways to improve collaboration
13 between State health care survey and provider
14 certification agencies, long-term care ombuds-
15 man programs, the long-term care industry,
16 and local community members;

17 (B) examine patient care issues relating to
18 regulatory oversight, community involvement,
19 and facility staffing and management with a
20 focus on staff training, staff stress manage-
21 ment, and staff supervision;

22 (C) examine the use of patient abuse pre-
23 vention training programs by long-term care en-
24 tities, including the training program developed
25 by the National Association of Attorneys Gen-

1 eral, and the extent to which such programs are
2 used; and

3 (D) identify and disseminate best practices
4 for preventing and reducing patient abuse.

5 (4) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated to carry out
7 this subsection such sums as may be necessary.

8 (c) SENSE OF THE SENATE REGARDING THE ESTAB-
9 LISHMENT OF A NATIONAL BACKGROUND CHECK SYSTEM
10 FOR LONG-TERM CARE EMPLOYEES.—

11 (1) FINDINGS.—The Senate makes the fol-
12 lowing findings:

13 (A) Nearly 1,500,000 Americans reside in
14 17,000 nursing homes throughout the Nation,
15 and the vast majority of nursing homes partici-
16 pate in the medicare and medicaid programs.

17 (B) The Federal Government spent
18 \$82,100,000,000 through the medicare and
19 medicaid programs in fiscal year 2000 for long-
20 term care services.

21 (C) The impending retirement of the baby
22 boom generation will greatly increase the de-
23 mand and need for quality long-term care, and
24 it is incumbent on Congress and the President
25 to ensure that medicare and medicaid bene-

1 ficiaries are protected from abuse, neglect, and
2 mistreatment.

3 (D) On July 30, 2001, the minority staff
4 of the special investigations division of the
5 Committee on Government Reform of the
6 House of Representatives issued a report which
7 found that in the past 2 years, over 30 percent
8 of nursing homes in the United States were
9 cited for a physical, sexual, or verbal abuse vio-
10 lation that had the potential to harm residents,
11 and nearly 10 percent of nursing homes had
12 violations that caused actual harm to residents.

13 (E) Although the majority of long-term
14 care facilities do an excellent job in caring for
15 elderly and disabled patients, incidents of abuse
16 and neglect and mistreatment do occur at an
17 unacceptable rate and are not limited to nurs-
18 ing homes alone.

19 (F) Without a national background check
20 system to screen applicants for employment, all
21 long-term care providers, including nursing fa-
22 cilities, home health, home care, and hospice
23 providers, are at risk for hiring workers with a
24 history of abuse and violence.

1 (G) A March 2002 report by the General
2 Accounting Office found that few prosecutions
3 and criminal convictions result from allegations
4 of abuse in nursing homes.

5 (H) Federal law requires all States to
6 maintain a nurse aide registry which includes
7 any substantiated findings of abuse committed
8 by nurse aides in nursing homes.

9 (I) In March 2002, the General Account-
10 ing Office testified before the Special Com-
11 mittee on Aging of the Senate that the existing
12 State registries contained significant gaps be-
13 cause many nursing home employees are not in-
14 cluded in the registries and the registries do not
15 track abuses committed in other States.

16 (J) A 1998 report from the Office of the
17 Inspector General of the Department of Health
18 and Human Services entitled “Safeguarding
19 Long-Term Care Residents” recommended es-
20 tablishing a national registry of abusive long-
21 term care workers to be checked by all long-
22 term care facilities before hiring an employee.

23 (2) SENSE OF THE SENATE.—It is the Sense of
24 the Senate that Congress should pass legislation
25 that will—

1 (A) require the Secretary of Health and
2 Human Services to establish a national registry
3 of abusive long-term care workers that will in-
4 corporate abuse information from all existing
5 State nurse aide registries, and expand infor-
6 mation included in the State registries and the
7 national registry to include abuse information
8 about all employees of all long-term care pro-
9 viders that receive funding through the medi-
10 care or medicaid programs (42 U.S.C. 1395 et
11 seq.; 1396 et seq.);

12 (B) require all long-term care providers,
13 before hiring a potential employee, to conduct
14 checks of both the national registry and crimi-
15 nal conviction records maintained by the Fed-
16 eral Bureau of Investigation, and prohibit long-
17 term care providers from hiring potential em-
18 ployees with relevant abuse and criminal his-
19 tories;

20 (C) require the Secretary of Health and
21 Human Services and the Attorney General to
22 develop an efficient system for long-term care
23 providers to use to check both the national reg-
24 istry and the criminal conviction records main-

1 tained by the Federal Bureau of Investigation
2 before hiring an employee; and

3 (D) ensure adequate safeguards to protect
4 the privacy and accuracy of information regard-
5 ing applicants for employment being checked
6 through the national registry and the criminal
7 conviction records maintained by the Federal
8 Bureau of Investigation.

9 (d) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), this section and the amendments made by
12 this section shall take effect on the date that is 6
13 months after the effective date of final regulations
14 promulgated to carry out this section and such
15 amendments.

16 (2) SENSE OF THE SENATE.—Subsection (c)
17 shall take effect on the date of enactment of this
18 section.

19 **SEC. 103. INCREASING THE NUMBER OF HEALTH CARE**
20 **PROFESSIONALS WITH GERIATRIC TRAINING.**

21 Section 338C of the Public Health Service Act (42
22 U.S.C. 254m) is amended by adding at the end the fol-
23 lowing:

24 “(e) For purposes of this section and section 338B,
25 the term ‘obligated service’, with respect to an individual

1 who has entered into a written contract with the Secretary
 2 under section 338B, includes any period in which the indi-
 3 vidual is enrolled and participating in an accredited (as
 4 determined by the Secretary) educational program that
 5 provides geriatric training. Upon the completion of such
 6 training, such individual, after consultation with the Sec-
 7 retary, shall provide geriatric services as appropriate dur-
 8 ing the remainder of such individual's period of obligated
 9 service.”.

10 **SEC. 104. SUPPORTING THE LONG-TERM CARE OMBUDS-**
 11 **MAN PROGRAM.**

12 Section 712(h) of the Older Americans Act of 1965
 13 (42 U.S.C. 3058g(h)) is amended—

14 (1) in paragraph (8), by striking “; and” and
 15 inserting a semicolon;

16 (2) in paragraph (9), by striking the period and
 17 inserting “; and”; and

18 (3) by adding at the end the following:

19 “(10) make grants, in consultation with the Di-
 20 rector of the Office of Elder Justice in the Depart-
 21 ment of Health and Human Services and the Direc-
 22 tor of the Office of Elder Justice in the Department
 23 of Justice, to eligible entities with relevant expertise
 24 and experience to conduct evaluations and pilot
 25 studies relating to various programs and methods

1 carried out by the Office of the State Long-Term
 2 Care Ombudsman or a local Ombudsman entity
 3 under section 307(a)(9) or this chapter, or to pro-
 4 vide support (such as an ombudsman resource cen-
 5 ter).”.

6 **SEC. 105. ESTABLISHMENT OF OFFICE OF ADULT PROTEC-**
 7 **TIVE SERVICES.**

8 (a) IN GENERAL.—Part A of title XI of the Social
 9 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
 10 ing at the end the following:

11 “OFFICE OF ADULT PROTECTIVE SERVICES

12 “SEC. 1150A. (a) IN GENERAL.—There is estab-
 13 lished within the Department of Health and Human Serv-
 14 ices, within the Administration on Children and Families,
 15 the Office of Adult Protective Services (in this section re-
 16 ferred to as the ‘Office’). The Office shall be headed by
 17 a Director, who shall be appointed by the Secretary.

18 “(b) DUTIES.—The Office shall—

19 “(1) provide necessary funding and support to
 20 State and local adult protective services offices that
 21 investigate reports of abuse, neglect, and exploi-
 22 tation of elders;

23 “(2) annually collect and disseminate data re-
 24 lating to the abuse, exploitation, and neglect of el-
 25 derly individuals in coordination with the Centers for

1 Disease Control and Prevention efforts to collect na-
2 tional data under section 2221(b);

3 “(3) develop and disseminate best practices re-
4 garding, and provide training on, carrying out pro-
5 tective services for elders;

6 “(4) in conjunction with the necessary experts,
7 conduct research related to the provision of such
8 protective services;

9 “(5) provide technical assistance to States and
10 other entities that provide or fund the provision of
11 such protective services, including through grants
12 made under title XX;

13 “(6) participate in the Intra-Agency Elder Jus-
14 tice Steering Committee established under section
15 2212; and

16 “(7) coordinate activities with the Office of
17 Elder Justice established under section 2211 and
18 with other Federal and State agencies that have re-
19 sponsibility for issues related to elder justice.

20 “(c) APPROPRIATIONS.—There are appropriated such
21 sums as may be necessary to carry out this section.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 this section take effect 90 days after the date of enactment
24 of the Elder Justice Act.

1 **SEC. 106. ASSURING SAFETY OF RESIDENTS WHEN NURS-**
2 **ING FACILITIES CLOSE.**

3 (a) MEDICARE.—Section 1819(c)(2) of the Social Se-
4 curity Act (42 U.S.C. 1395i–3(c)(2)) is amended by add-
5 ing at the end the following:

6 “(D) NOTIFICATION OF FACILITY CLO-
7 SURE.—

8 “(i) IN GENERAL.—A skilled nursing
9 facility shall—

10 “(I) submit to the Secretary and
11 the appropriate State regulatory agen-
12 cy written notification of an impend-
13 ing closure not later than the date
14 that is 60 days prior to the date of
15 such closure;

16 “(II) include in the notice a plan
17 for the transfer and adequate reloca-
18 tion of the residents prior to closure,
19 including assurances that residents
20 will not be transferred to facilities
21 providing substandard care for which
22 administrative or law enforcement ac-
23 tion is pending; and

24 “(III) not later than 10 days
25 after the facility closure, submit to the
26 Secretary and the appropriate State

1 agency information identifying where
2 residents of the closed facility were
3 transferred and on what date.

4 “(ii) SANCTIONS.—Any person owning
5 a skilled nursing facility that fails to com-
6 ply with the requirements of clause (i)
7 shall be subject to—

8 “(I) a civil monetary penalty of
9 up to \$1,000,000;

10 “(II) exclusion from participation
11 in the programs under this Act (in ac-
12 cordance with the procedures of sec-
13 tion 1128); and

14 “(III) any other applicable civil
15 monetary penalties and assessments.

16 “(iii) PROCEDURE.—A civil monetary
17 penalty or assessment authorized under
18 clause (ii) shall be imposed against a per-
19 son in the same manner as a civil mone-
20 tary penalty, assessment, or exclusion is
21 imposed under section 1128A.”.

22 (b) MEDICAID.—Section 1919(c)(2) of the Social Se-
23 curity Act (42 U.S.C. 1396r(c)(2)) is amended by adding
24 at the end the following:

1 “(G) NOTIFICATION OF FACILITY CLO-
2 SURE.—

3 “(i) IN GENERAL.—A nursing facility
4 shall—

5 “(I) submit to the Secretary and
6 the appropriate State regulatory agen-
7 cy written notification of an impend-
8 ing closure not later than the date
9 that is 60 days prior to the date of
10 such closure;

11 “(II) include in the notice a plan
12 for the transfer and adequate reloca-
13 tion of the residents prior to closure,
14 including assurances that residents
15 will not be transferred to facilities
16 providing substandard care for which
17 administrative or law enforcement ac-
18 tion is pending; and

19 “(III) not later than 10 days
20 after the facility closure submit to the
21 Secretary and the appropriate State
22 agency information identifying where
23 residents of the closed facility were
24 transferred and on what date.

1 “(ii) SANCTIONS.—Any person owning
2 a nursing facility that fails to comply with
3 the requirements of clause (i) shall be sub-
4 ject to—

5 “(I) a civil monetary penalty of
6 up to \$1,000,000;

7 “(II) exclusion from participation
8 in the programs under this Act (in ac-
9 cordance with the procedures of sec-
10 tion 1128); and

11 “(III) any other applicable civil
12 monetary penalties and assessments.

13 “(iii) PROCEDURE.—A civil monetary
14 penalty or assessment authorized under
15 clause (ii) shall be imposed against a per-
16 son in the same manner as a civil mone-
17 tary penalty, assessment, or exclusion is
18 imposed under section 1128A.”.

19 (c) REGULATIONS.—The Secretary, after consulting
20 with the Attorney General, shall issue regulations to carry
21 out this section.

TITLE II—DEPARTMENT OF JUSTICE

SEC. 201. DEFINITIONS; RULE.

(a) DEFINITIONS.—In this title the terms “abuse”, “elder”, “elder justice”, “exploitation”, “fiduciary”, “grant”, “granting authority”, “guardianship”, “knowingly”, “law enforcement”, “neglect”, “serious bodily injury”, “social”, “State”, and “vulnerable adult” have the meanings given such terms in title XXII of the Social Security Act.

(b) RULE.—The Attorney General may determine, in an appropriate case, that a provision of this title that applies to elders also applies to vulnerable adults.

SEC. 202. MODEL STATE LAWS AND PRACTICES.

(a) IN GENERAL.—The Attorney General, after consultation with the Secretary of Health and Human Services, shall—

(1) conduct a study and prepare a report of the findings of that study of State laws and practices relating to elder abuse, neglect, and exploitation and provide such report or periodic reports to the Elder Justice Resource Center established under section 2221 of the Social Security Act, to be made available to the public; and

1 (2) not later than 2 years after the date of en-
2 actment of this Act, submit to the Chairman and
3 Ranking Member of the Special Committee on Aging
4 of the Senate, and the Speaker and Minority leader
5 of the House of Representatives a report that—

6 (A) provides recommendations on a com-
7 prehensive description and comparative analysis
8 of the State laws and practices; and

9 (B) provides recommended models for
10 State laws and practices based on an analysis
11 of the most effective State laws and practices,
12 including recommendations with respect to the
13 definitions referred to in subsection (b)(1).

14 (b) STATE LAWS AND PRACTICES.—The Attorney
15 General shall examine State laws and practices under sub-
16 section (a) on issues including—

17 (1) definitions of “elder”, “abuse”, “neglect”,
18 and “exploitation”, and related terms;

19 (2) mandatory reporting laws, with respect to—

20 (A) who is a mandated reporter;

21 (B) to whom must they report and within
22 what timeframe; and

23 (C) any consequences for nonreporting;

24 (3) evidentiary, procedural, sentencing, choice
25 of remedies, and data retention issues relating to

1 pursuing cases relating to elder abuse, neglect, and
2 exploitation;

3 (4) laws requiring immediate reporting of all
4 nursing home deaths to the county coroner or to
5 some other individual or entity;

6 (5) fiduciary laws, including guardianship and
7 power of attorney laws;

8 (6) laws that permit or encourage banks and
9 bank employees to prevent and report suspected
10 elder abuse, neglect, and exploitation;

11 (7) laws that may impede research on elder
12 abuse, neglect, and exploitation;

13 (8) practices relating to the enforcement of laws
14 relating to elder abuse, neglect, and exploitation; and

15 (9) practices relating to other aspects of elder
16 justice.

17 **SEC. 203. OFFICE OF ELDER JUSTICE OF THE DEPARTMENT**
18 **OF JUSTICE.**

19 (a) ESTABLISHMENT.—There is established within
20 the Department of Justice under the Assistant Attorney
21 General, Office of Justice Programs, an Office of Elder
22 Justice.

23 (b) DIRECTOR.—

24 (1) APPOINTMENT.—The President, with the
25 advice and consent of the Senate, shall appoint a Di-

1 rector of the Office of Elder Justice, from among in-
2 dividuals with experience and expertise in elder jus-
3 tice issues, to manage the Office of Elder Justice es-
4 tablished under this section.

5 (2) DUTIES.—The Director of the Office of
6 Elder Justice shall—

7 (A)(i) develop objectives, priorities, policy,
8 and a long-term plan for elder justice programs
9 and activities relating to prevention, detection,
10 training, treatment, evaluation, intervention, re-
11 search, and improvement of the elder justice
12 system in the United States;

13 (ii) implement the overall policy and a
14 strategy to carry out the plan described in
15 clause (i); and

16 (iii) hire personnel to assist the director in
17 carrying out the policy, program, and adminis-
18 trative activities related to the duties under
19 clauses (i) and (ii);

20 (B) provide advice to the Attorney General
21 on elder justice issues; and

22 (C) coordinate activities with the Senior
23 Counsel on Elder Justice.

24 (3) REPORTING RELATIONSHIP.—The Director
25 of the Office of Elder Justice shall have the same

1 reporting relationship with the Attorney General and
2 the Assistant Attorney General, Office of Justice
3 Programs, as the directors of the other offices head-
4 ed by presidential appointees within the Office of
5 Justice Programs.

6 (4) COMPENSATION.—The Director shall be
7 compensated at a rate that shall not exceed the rate
8 established for level I of the Executive Schedule
9 under section 5312 of title 5, United States Code.

10 (c) SENIOR COUNSEL.—

11 (1) APPOINTMENT.—The Attorney General
12 shall appoint a Senior Counsel on Elder Justice,
13 from among individuals with experience and exper-
14 tise in elder justice issues.

15 (2) DUTIES.—The Senior Counsel on Elder
16 Justice shall—

17 (A) coordinate elder justice activities
18 among—

19 (i) the Office of Elder Justice;

20 (ii) other offices (including bureaus)
21 within the Office of Justice Programs that
22 are involved with elder justice issues;

23 (iii) litigating divisions with cases re-
24 lating to elder justice matters;

1 (iv) the Executive Office of United
2 States Attorneys and the United States
3 Attorneys' offices; and

4 (v) any other office or division of the
5 Department of Justice that the Attorney
6 General considers appropriate for such co-
7 ordination; and

8 (B) provide advice to the Attorney General
9 on elder justice issues.

10 (3) LOCATION.—The Senior Counsel on Elder
11 Justice shall be located in—

12 (A) the Office of the Attorney General;

13 (B) the Office of the Deputy Attorney
14 General; or

15 (C) the Office of the Associate Attorney
16 General.

17 (4) POSITION.—The position of the Senior
18 Counsel on Elder Justice shall be a Senior Executive
19 Service position, as defined in section 3132 of title
20 5, United States Code.

21 (5) STAFF.—The Senior Counsel on Elder Jus-
22 tice may appoint and terminate 1 full-time employee
23 to enable the Senior Counsel to perform the duties
24 described in paragraph (2). The Senior Counsel on
25 Elder Justice may fix the compensation of the em-

1 ployee in accord with chapter 51 and subchapter III
2 of chapter 53 of title 5, United States Code, relating
3 to classification of positions and General Schedule
4 pay rates.

5 (6) RELATION TO OTHER LAW.—The positions
6 described in paragraphs (4) and (5), and the salary
7 for the positions, shall be in addition to the total
8 number of positions and the total amount of salary
9 provided for in Public Law 107–77.

10 **SEC. 204. GRANTS UNDER THE SOCIAL SECURITY ACT.**

11 The Attorney General is authorized to award grants
12 under subsections (a), (c)(1), (c)(2), (d), (e)(1), (f), (h),
13 and (i) of section 2222 and under section 2224 of the So-
14 cial Security Act in accordance with such subsections.

15 **SEC. 205. VICTIM ADVOCACY GRANTS.**

16 (a) GRANTS AUTHORIZED.—The Attorney General,
17 after consultation with the Secretary of Health and
18 Human Services, may award grants to eligible entities to
19 study the special needs of victims of elder abuse, neglect,
20 and exploitation.

21 (b) AUTHORIZED ACTIVITIES.—Funds awarded pur-
22 suant to subsection (a) shall be used for pilot programs
23 that develop programs, provide training to health care, so-
24 cial and protective services providers, law enforcement, fi-
25 duciaries including guardians, judges and court personnel,

1 and victim advocates, and examine special approaches de-
2 signed to meet the needs of victims of elder abuse, neglect,
3 and exploitation.

4 **SEC. 206. SUPPORTING LOCAL PROSECUTORS IN ELDER**
5 **JUSTICE MATTERS.**

6 (a) GRANT AUTHORIZED.—The Attorney General,
7 after consultation with the Director of Office of Elder Jus-
8 tice in the Department of Health and Human Services,
9 shall award grants to provide training, technical assist-
10 ance, policy development, multidisciplinary coordination,
11 and other types of support to local prosecutors, handling
12 elder justice-related cases, including the funding of spe-
13 cially designated elder justice positions or units, or fund-
14 ing the creation of a Center for the Prosecution of Elder
15 Abuse, Neglect, and Exploitation by the American Pros-
16 ecutor Research Institute of the National District Attor-
17 neys Association, or other similarly situated entity to ad-
18 vise and support local prosecutors nationwide in their pur-
19 suit of cases involving elder abuse, neglect, and exploi-
20 tation.

21 (b) DUTIES.—The Center created under subsection
22 (a) shall, among other things—

23 (1) collaborate with experts in elder abuse, ne-
24 glect, and exploitation;

1 (2) collaborate with the Advisory Board created
2 by section 2214 of the Social Security Act; and

3 (3) provide local prosecutors and personnel as-
4 sisting such prosecutors with training, technical as-
5 sistance, multidisciplinary teams and input, in the
6 handling, prevention and prosecution of, and special
7 circumstances surrounding elder abuse, neglect, and
8 exploitation.

9 **SEC. 207. SUPPORTING STATE PROSECUTORS IN ELDER**
10 **JUSTICE MATTERS.**

11 (a) IN GENERAL.—The Attorney General shall, after
12 consultation with the Secretary of Health and Human
13 Services, award grants to provide training, technical as-
14 sistance, multidisciplinary coordination, policy develop-
15 ment, and other types of support to State prosecutors, in-
16 cluding employees of State Attorneys General and Med-
17 icaid Fraud Control Units, handling elder justice-related
18 matters.

19 (b) CREATING SPECIALIZED POSITIONS.—Grants
20 under this section may be made for—

21 (1) the establishment of specially designated
22 elder justice positions or units; or

23 (2) the creation of a position to coordinate elder
24 justice-related cases, training, technical assistance,
25 and policy development for State prosecutors, by the

1 National Association of Attorneys General (NAAG)
2 or other similarly situated entity.

3 **SEC. 208. SUPPORTING FEDERAL CASES INVOLVING ELDER**
4 **JUSTICE.**

5 (a) SUPPORT AND ASSISTANCE.—

6 (1) IN GENERAL.—The Attorney General shall
7 support cases relating to elder justice.

8 (2) ADDITIONAL STAFF.—The Attorney General
9 shall have additional Federal prosecutors and make
10 funding available to Federal prosecutors to hire
11 nurse-investigators or other experts needed to iden-
12 tify, assist with, or pursue cases relating to elder
13 justice.

14 (3) RESOURCE GROUP.—The Attorney General
15 may fund through the Executive Office of United
16 States Attorneys for a Resource Group to assist
17 prosecutors throughout the Nation in pursuing fail-
18 ure of care and other cases relating to elder justice
19 matters.

20 (b) OFFICE OF INSPECTOR GENERAL.—The Office of
21 Inspector General of the Department of Health and
22 Human Services shall hire nurse investigators and other
23 experts to investigate and pursue failure of care allega-
24 tions.

1 **SEC. 209. COMMUNITY POLICING.**

2 (a) GRANT AUTHORIZED.—The Attorney General,
3 after consultation with the Secretary of the Department
4 of Health and Human Services, shall establish a grant
5 program to develop community policing and other law en-
6 forcement efforts to make communities safer for elders liv-
7 ing in all settings.

8 (b) SPECIAL ELDER UNITS.—The Attorney General,
9 after consultation with the Secretary of Health and
10 Human Services, shall establish a grant program to sup-
11 port—

12 (1) special elder units and officers;

13 (2) in rural areas with fewer law enforcement
14 personnel, a specially trained elder officer;

15 (3) programs, including the Alzheimer Associa-
16 tion’s “Safe Return Program” or other similar pro-
17 gram; and

18 (4) training, technical assistance, policy devel-
19 opment, multidisciplinary coordination, and other
20 support and programs relating to elder justice.

21 **SEC. 210. SUPPORTING LAW ENFORCEMENT IN ELDER JUS-**
22 **TICE MATTERS.**

23 The Attorney General shall, after consultation with
24 the Secretary of Health and Human Services, award
25 grants to provide training, technical assistance, multidisci-
26 plinary coordination, policy development, and other types

1 of support to police, sheriffs, detectives, public safety offi-
2 cers, corrections personnel, and other front line law en-
3 forcement responders who handle elder justice-related
4 matters, to fund specially designated elder justice posi-
5 tions or units, designed to support front line law enforce-
6 ment in elder justice matters.

7 **SEC. 211. EVALUATIONS.**

8 (a) GRANTS.—

9 (1) IN GENERAL.—In making a grant under a
10 provision of this title (other than this section), the
11 granting authority shall—

12 (A) require the recipient of the grant to—

13 (i) reserve a portion of the funds
14 made available through the grant; and

15 (ii) use the reserved funds to conduct
16 an evaluation of the other activities carried
17 out through the grant; or

18 (B)(i) reserve a portion of the funds avail-
19 able for the grant; and

20 (ii) use the reserved funds to provide as-
21 sistance to an eligible entity to conduct an eval-
22 uation of the activities carried out through the
23 grant.

24 (2) USE OF FUNDS.—A recipient of a grant de-
25 scribed in paragraph (1)(A), or assistance described

1 in paragraph (1)(B)(ii), shall use the funds made
2 available through the grant, or the assistance, re-
3 spectively, to conduct a validated evaluation of the
4 effectiveness of the activities described in subpara-
5 graph (A) or (B), respectively, of paragraph (1).

6 (3) APPLICATIONS.—

7 (A) SUBMISSION.—

8 (i) GRANTS FOR PROJECTS CON-
9 TAINING EVALUATIONS.—To be eligible to
10 receive a grant for which the granting au-
11 thority requires the reservation described
12 in paragraph (1)(A)(i), an entity shall in-
13 clude a proposal for the evaluation in the
14 application submitted for the grant.

15 (ii) ASSISTANCE FOR EVALUATIONS.—

16 To be eligible to receive assistance under
17 paragraph (1)(B)(ii), an entity shall sub-
18 mit an application to the granting author-
19 ity at such time, in such manner, and con-
20 taining such information as the granting
21 authority may require, including a proposal
22 for the evaluation.

23 (B) REVIEW AND ASSISTANCE.—An em-

24 ployee of the Department of Justice, after con-
25 sultation with an employee of the Department

1 of Health and Human Services and a non-
2 governmental member of the advisory board es-
3 tablished under section 2214 of the Social Secu-
4 rity Act, with expertise in evaluation method-
5 ology shall review each proposal described in
6 clause (i) or (ii) of subparagraph (A), and de-
7 termine whether the methodology described in
8 the proposal is adequate to gather meaningful
9 information. If the reviewers determine that the
10 methodology is inadequate, they shall rec-
11 ommend that the granting authority deny the
12 application for the grant described in subpara-
13 graph (A)(i), or the assistance described in sub-
14 paragraph (B)(ii), as appropriate, or make rec-
15 ommendations for how the application should
16 be amended. If the granting authority denies
17 the application on the basis of the proposal, the
18 granting authority shall inform the applicant
19 why the application was denied, and offer as-
20 sistance to the applicant in modifying the pro-
21 posal.

22 (b) OTHER GRANTS.—The granting authority shall
23 make grants to appropriate entities to conduct validated
24 evaluations of activities, to reduce elder abuse, neglect,
25 and exploitation, that are not funded under this title.

1 (c) CONDITION OF PARTICIPATION.—As a condition
 2 of participation in any grant under this title, individuals,
 3 facilities, and other entities shall agree to be subject to
 4 the provisions of section 571 of title 18, United States
 5 Code, as added by this Act.

6 **SEC. 212. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated such sums
 8 as are necessary for fiscal years 2004 through 2010 to
 9 carry out this title.

10 **SEC. 213. CAUSE OF ACTION FOR ELDER ABUSE AND NE-**
 11 **GLECT.**

12 (a) IN GENERAL.—Part I of title 18, United States
 13 Code, is amended by adding after chapter 27 the fol-
 14 lowing:

15 **“CHAPTER 28—ELDER ABUSE AND**
 16 **NEGLECT**

“Sec.

“571. Harm to residents of nursing facilities.

17 **“§ 571. Harm to residents of nursing facilities**

18 “(a) DEFINITIONS.—In this section:

19 “(1) ENTITY.—The term ‘entity’ means—

20 “(A) any nursing facility (including facili-
 21 ties that do not exclusively provide nursing
 22 care);

23 “(B) any entity that manages a nursing
 24 facility; or

1 “(C) any entity that owns, directly or indi-
2 rectly, a controlling interest or a 50 percent or
3 greater interest in 1 or more nursing facilities.

4 “(2) NEGLECT.—The term ‘neglect’ means the
5 failure of a caregiver (as defined in section 2201 of
6 the Social Security Act) to provide the goods or
7 services that are necessary to avoid physical harm,
8 disability, mental anguish, or mental illness.

9 “(3) NURSING FACILITY.—The term ‘nursing
10 facility’ means both a nursing facility (as defined in
11 section 1919(a) of the Social Security Act) and a
12 skilled nursing facility as defined in section 1819(a)
13 of the Social Security Act (42 U.S.C. 1395i–3(a)).

14 “(4) PERSON.—The term ‘person’ has the same
15 meaning as in section 921(a)(1) of this title.

16 “(b) OFFENSE.—

17 “(1) IN GENERAL.—It shall be unlawful for any
18 person or entity to, with the intent to cause injury
19 or with reckless disregard for the safety of human
20 life, act or fail to act, if such act or omission results
21 in—

22 “(A) serious bodily injury to 1 or more
23 residents of a nursing facility; and

24 “(B) abuse or neglect of an additional 2 or
25 more residents of the same nursing facility.

1 “(2) PENALTY FOR INDIVIDUAL.—Any indi-
2 vidual who violates paragraph (1) shall be—

3 “(A) imprisoned for not more than 20
4 years and, if death results, shall be imprisoned
5 for any term of years or for life; and

6 “(B) fined in accordance with section
7 3571.

8 “(3) OTHER PENALTY.—Any entity or person,
9 other than an individual, that violates paragraph (1)
10 shall be fined not more than \$3,000,000 per nursing
11 facility involved.”.

12 (b) HEALTH CARE OFFENSE.—Section 24(a)(1) of
13 title 18, United States Code, is amended by inserting
14 “571,” before “669.”.

15 (c) TECHNICAL AND CONFORMING AMENDMENT.—
16 The table of chapters for part I of title 18, United States
17 Code, is amended by inserting after the item relating to
18 chapter 27 the following:

“28. Elder Abuse and Neglect 571”.

19 **SEC. 214. CIVIL ACTIONS FOR ELDER ABUSE AND NEGLECT.**

20 (a) DEFINITIONS.—In this section:

21 (1) ENTITY.—

22 (A) IN GENERAL.—The term “entity”
23 means—

1 (i) any nursing facility (including fa-
2 cilities that do not exclusively provide nurs-
3 ing care);

4 (ii) any entity that manages a nursing
5 facility; or

6 (iii) any entity that owns, directly or
7 indirectly, a controlling interest or a 50
8 percent or greater interest in 1 or more
9 nursing facilities.

10 (B) ADDITIONAL ENTITIES.—The term
11 shall include States, localities, and political sub-
12 divisions thereof.

13 (2) NEGLECT.—The term “neglect” means the
14 failure of a caregiver (as defined in section 2201 of
15 the Social Security Act, as added by this Act) to
16 provide the goods or services that are necessary to
17 avoid physical harm, disability, mental anguish, or
18 mental illness.

19 (3) NURSING FACILITY.—The term “nursing
20 facility” means both a nursing facility (as defined in
21 section 1919(a) of the Social Security Act (42
22 U.S.C. 1396r(a))) and a skilled nursing facility as
23 defined in section 1819(a) of the Social Security
24 Act.

1 (4) PERSON.—The term “person” has the same
2 meaning as in section 921(a)(1) of title 18, United
3 States Code.

4 (5) OTHER TERMS.—The terms “abuse”,
5 “State”, and “serious bodily injury” shall have the
6 meanings given those terms in section 2201 of the
7 Social Security Act.

8 (b) CIVIL ACTIONS BROUGHT BY THE ATTORNEY
9 GENERAL.—

10 (1) IN GENERAL.—The Attorney General may
11 bring an action under this subsection against any
12 person or entity that knowingly, or in reckless dis-
13 regard for the safety of human life, acts or fails to
14 act, if such act or omission results in serious bodily
15 injury to 1 or more residents of a nursing facility
16 and in abuse or neglect of an additional 2 or more
17 residents of the same nursing facility.

18 (2) CIVIL PENALTY.—A person or entity that
19 acts or fails to act as described in paragraph (1)
20 shall be liable to the United States for a civil penalty
21 of—

22 (A) in the case of an individual (other than
23 an owner, operator, officer, or manager of such
24 a nursing facility, such as a nurse or a certified

1 nurse's aide) up to \$50,000 for each violation
2 of this subsection;

3 (B) in the case of an individual who is an
4 owner, operator, officer, or manager of such a
5 nursing facility, up to \$500,000 for each viola-
6 tion of this subsection;

7 (C) in the case of a violation of this sub-
8 section involving a single nursing facility, that
9 facility, or its management company, up to
10 \$3,000,000 for that facility for such violation;
11 and

12 (D) in the case of a violation of this sub-
13 section at 2 or more nursing facilities with com-
14 mon ownership or under common management,
15 up to \$6,000,000 for each entity that owns
16 such facilities where there were such violations.

17 The amount shall be set by the district court, de-
18 pending on the number of residents who suffered
19 abuse or neglect, the severity of the injury to resi-
20 dents relating to abuse or neglect, and the number
21 of resident deaths relating to abuse or neglect at the
22 facilities in violation of this subsection.

23 (3) OTHER APPROPRIATE RELIEF.—If the At-
24 torney General has reason to believe that a person
25 or entity is engaging in or is about to engage in an

1 act or omission that results in or has the potential
2 for resulting in serious bodily injury to 1 or more
3 residents of a nursing facility and in abuse or ne-
4 glect of an additional 2 or more residents of the
5 same nursing facility, the Attorney General may pe-
6 tition an appropriate United States district court for
7 appropriate equitable and declaratory relief to elimi-
8 nate the circumstances giving rise to the actual or
9 potential harm.

10 (4) PROCEDURES.—

11 (A) IN GENERAL.—A subpoena requiring
12 the attendance of a witness at a trial or hearing
13 conducted under this subsection may be served
14 at any place in the United States.

15 (B) LIMITATION.—An action brought
16 under paragraph (1) may not be brought more
17 than 6 years after the date on which the viola-
18 tion of this subsection occurred, except that the
19 time for filing is tolled during the period when
20 the right of action was not known and reason-
21 ably could not have been known by an official
22 of the United States charged with responsibility
23 to act in the circumstances.

24 (C) STANDARD OF PROOF.—The United
25 States shall be required to prove all actions

1 under this subsection by a preponderance of the
2 evidence.

3 (D) CIVIL INVESTIGATIVE DEMAND PROCE-
4 DURES.—The civil investigative demand proce-
5 dures set forth in The Antitrust Civil Process
6 Act (15 U.S.C. 1511 et seq.) may be used in
7 investigations and actions pursued under this
8 subsection.

9 (d) RELATIONSHIP TO OTHER LAWS.—This section
10 is not intended to supplant or otherwise bar any existing
11 equitable, common law, or criminal or civil statutory rem-
12 edies possessed by the United States, including under the
13 False Claims Act (31 U.S.C. 33729–3733). The Federal
14 Rules of Civil Procedure shall apply to actions brought
15 under subsection (b).

16 (e) NO PRIVATE CAUSE OF ACTION.—Nothing in this
17 title creates a private cause of action or in any other way
18 increases the liability of any person under any other law.

19 **TITLE III—TAX PROVISIONS**

20 **SEC. 301. LONG-TERM CARE FACILITY WORKER EMPLOY- 21 **MENT TAX CREDIT.****

22 (a) WORK OPPORTUNITY TAX CREDIT.—

23 (1) IN GENERAL.—Section 51(d)(1) of the In-
24 ternal Revenue code of 1986 (relating to members of
25 targeted groups) is amended by striking “or” at the

1 end of subparagraph (G), by striking the period at
 2 the end of subparagraph (H) and inserting “, or”,
 3 and by adding at the end the following:

4 “(I) a qualified long-term care facility
 5 worker.”.

6 (2) QUALIFIED LONG-TERM CARE FACILITY
 7 WORKER.—Section 51(d) of such Code is amended
 8 by redesignating paragraphs (10) through (12) as
 9 paragraphs (11) through (13), respectively, and by
 10 inserting after paragraph (9) the following:

11 “(10) QUALIFIED LONG-TERM CARE FACILITY
 12 WORKER.—The term ‘qualified long-term care facil-
 13 ity worker’ means any individual who—

14 “(A) is hired by a long-term care facility
 15 (as defined in section 2201 of the Social Secu-
 16 rity Act; and

17 “(B) is certified by the designated local
 18 agency as being qualified to provide long-term
 19 care (as defined in section 2201 of such Act) at
 20 such facility.”

21 (b) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to individuals who begin work for
 23 the employer after the date of enactment of this Act.

○